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DELAY REDUCTION PILOT PROJECTS

AN ASSESSMENT

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Dawson, Nancy  
PROVINCIAL COURT  
(CRIMINAL DIVISION) DELAY  
REDUCTION PILOT PROJECTS

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Nancy Dawson  
Delay Reduction Project  
March 20, 1991

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## DELAY REDUCTION PILOT PROJECTS

### AN ASSESSMENT

#### INTRODUCTION

In 1988, the Ministry of the Attorney General created a delay reduction pilot project to deal with lengthy court delays in scheduling trials in the Provincial Court (Criminal Division). The courts were overburdened with cases. Criminal trials were not being reached for over a year. Cases were being remanded to new trial dates when they were not heard on the date set for trial due to the overcrowding of the courts. Cases were being terminated due to delays that were held to be infringing the accused's rights to a trial without unreasonable delay as guaranteed by the Canadian Charter of Rights and Freedoms. Often, the courts were not aware of what the accused intended to do regarding his case until the trial date itself.

Originally a part of the Court Reform Task Force, the project and delay reduction province-wide is now the responsibility of Courts Administration. The initial project encompassed six pilot projects in the Provincial Court (Criminal Division). These projects are located in Ottawa, Peel Region (Brampton), Simcoe Region (Barrie), Durham Region (Oshawa), Scarborough, and York Region (Newmarket).

The focus of these projects was to reduce the delay in getting matters to trial and to improve the effective utilization of the court through the use of caseflow management techniques. Caseflow management techniques have been extremely successful in a number of jurisdictions in the United States.

Each pilot project had a committee comprised of judges, Crown Attorneys, courts administrators, Legal Aid, defence counsel, the police, and a trial co-ordinator. Many committees had a federal prosecutor as a member as well. The committees were created in the fall of 1988.

These committees met on a monthly basis to discuss matters of caseflow management in their system. Methods of reducing delay were discussed along with potential solutions. A number of innovative procedures and programmes have resulted from these meetings. The committees, through co-operative management, were able to improve their efficiency.

As a result of increasing delays province-wide in a number of jurisdictions, the decision was made to expand the programme and commence delay reduction techniques on a



province-wide basis. As a result of this decision, the focus on the six pilot projects has been re-diverted to other areas on a regional basis. The Regional Directors of Courts Administration and Crown Attorneys in pilot projects regions are now the Ministry's liaison with the committees and will advise on the progress of these committees, the needs of these committees, and any potential or actual problems that arise through the functioning of these committees.

All six original committees are still functioning. A number have renamed themselves as court's management committees.

The decision to implement delay reduction techniques province-wide was the result of a large number of sites experiencing delays of six months or more between the time a matter was set for trial and the actual trial date and predated the Supreme Court of Canada's decision in Askov et al. v. The Queen.

#### RATIONAL FOR DELAY REDUCTION

##### i) Quality of justice

- . Ensure accused's right to trial in reasonable time is not infringed.
- . Delay impact on victims and witnesses. An early resolution of criminal charges is essential to the public's perception of justice. Delayed resolution of matters of significant concern to victims and the necessity of multiple visits to the court in an attempt to have a trial heard impairs the public's perception of justice being done.
- . Trial delay impairs the course of justice through the erosion of victim and witness memories of the event. Also impairment of witness cooperation or availability after a long period of time.
- . Delays in trial and sentencing of accused reduce deterrent effect on accused. Potential danger to the public of late resolution of cases.
- . Public respect and confidence in administration eroded through late trial dates. Cases are lost, accused are at large, witnesses and victims are upset. Early resolution essential to perception of effective judicial system.

##### ii) Potential for case dismissal

- . Time limitations may result in serious charges preempting and requiring the withdrawal of significant number of lesser charges. The minor charges are those that directly affect the





public and their perception of the failure of the justice system. The successful resolution of charges arising out of a neighbourhood dispute or local matter has an immediate impact on the public's perception of the failure of the justice system.

## CAUSES OF DELAY

### Major Causes of Delay

- . Canadian Charter of Rights and Freedoms creating entrenched rights for accused and imposing corresponding duties on the police and courts. Legal arguments expanded requiring more court time.
- . Increased impaired driving and related offenses trials due to legislation increasing length of licence suspensions under the Highway Traffic Act.
- . Young Offender's Act.
- . Increased emphasis on prosecutions of domestic assault, sexual assault, and child abuse.
- . Increasing police complement in local forces resulting in more charges being laid.
- . Snowballing of delay as accused deferred resolution by setting trial dates in expectation of successful Charter delay motion.
- . Lack of caseflow management techniques and accurate trial scheduling. Failure to resolve matters early results in inaccurate lists. Matters may plead guilty resulting in a collapsed list or cases are not reached due to overbooking in an effort to fully use available court time.
- . Lack of resources: courtrooms, judges, experienced prosecutors and staff. Slow replacement of retiring or deceased judges.
- . Paralegals contesting minor cases.
- . Prior judicial and geographical boundaries impeding efficient transfer of cases.
- . The victim fine surcharge and proceeds of crime legislation will also lengthen proceedings and contribute to delay.

### Factors Causing or Aggravating Delay and Backlog

- . Inadequate timely information regarding number of witnesses and their schedules.



- . Timing of procedural decisions not integrated with court schedules.
- . Insufficient notice of guilty pleas; many guilty pleas on trial dates.
- . Insufficient information regarding motions and arguments involved in trial.
- . Lack of time standards for common cases.
- . The existence of satellite courts.
- . Numerous prosecutors and agencies using same courts.
- . Slack adjournment policies.
- . Heavy caseloads of defence counsel.
- . Insufficient pre-charge or pretrial screening, trivial cases, incomplete investigations, unprovable cases.
- . Ministry directives and guidelines regarding prosecutions.
- . Insufficient trial preparation by some prosecutors.
- . Serious cases not assigned to prosecutors early enough; turnover of prosecutors.
- . Some per diem prosecutors reluctant to make decisions or work slowly.
- . Poor case and docket management by some prosecutors.
- . Paralegals contesting minor cases.
- . Lack of preparation by some defence counsel.
- . No incentives to speed resolution.
- . No diversion programs.
- . Numerous procedural steps and unnecessary complexity.
- . Trial decisions delayed pending rulings in other courts.
- . No clear rules of practice.
- . No precise time limit for trial process.
- . Slow Legal Aid processing in some locations.
- . No goals for case-processing.
- . Unclear accountability for case management and processing time.
- . Data collection insufficient and inefficient.
- . Untrained, slow, or inexperienced clerks, judges, and Crowns.
- . Non criminal cases in courts.



## KEY ELEMENTS OF DELAY REDUCTION

### 1. The establishment of firm "real" lists.

**Rational:** When matters are not reached for trial this creates a perception they will not be reached. The result is that lawyers do not prepare their cases and according are not ready even if they were reached. There is no incentive for either counsel or the client to resolve matters in advance as there is no guarantee they will be forced on. This results in trial dates being set to gain delay and counsel not reviewing their files. Heavy lists collapsing due to guilty pleas or inaccurate time estimates perpetuates this cycle as more cases are scheduled and accordingly may not be reached. Events that are scheduled must occur.

#### **Procedure**

- . Establish accurate knowledge of trial time requirements through screening, defence\Crown discussions, statistics.
- . Front end guilty pleas to increase accuracy of trial lists.
- . Accurate scheduling

### 2. Early resolution of matters that are resolvable.

**Rational:** This is essential in keeping trial lists clear and providing early dates. The earlier a matter is dealt with the less appearances in court are required and the less trial time that is scheduled. This is key to establishment of real lists.

#### **Procedure**

- . Early disclosure
- . Defence/Crown discussions
- . Late plea sanctions
- . Plea negotiation cutoff

### 3. Many events scheduled that require counsel to examine their files.

**Rational:** The more opportunities for defence counsel and Crown Attorneys to discuss the case the earlier and larger pretrial resolution is. This is referred to as the "reverse telescope" by American experts. This entails stages of resolution so the final number of matters that are set for valuable court time is small and is firm court trial time (recognizing that there will always be those who plead guilty on the trial date regardless of earlier opportunities provided).





## Procedure

- . Plea negotiation cutoff
- . Trial readiness forms/appearances
- . Pretrials
  - . determined by a number of factors such as time requested, nature of charges, number of charges, and complexity of case.
  - . to narrow issues and witnesses if a day or more of trial time was requested.
  - . Case manager Crown to review cases set for pretrial and attend pretrials.
  - . Crown follows up issues, identifies those cases that require assignment, discusses resolutions with defence, and monitors those cases set for a day or more of court time to ensure accuracy of times and Crown assignment.

### 4. Disclosure at an early stage.

**Rational:** This is essential to caseflow management and early resolution of cases. Counsel will not be prepared to discuss and resolve the case unless they know the full case against their client. The earlier and more detailed the disclosure the more likely that issues can be resolved or witnesses and court time reduced.

The benefits to the Crown of providing early disclosure are numerous. Early disclosure may lead to an early guilty plea which saves the Crown the necessity of preparing for a trial of that matter. The more often guilty pleas occur at an early stage the less they occur on the trial date. A reduction of guilty pleas on the trial date means not as many matters need be scheduled which in turn results in the Crown not receiving as many files for trial. It may also save the need for lengthy victim interviews. It will certainly reduce backlog as the matter will be out of the system not remaining as a "pending" matter.

## Procedure

- . Duty Crown available for advice to the public and police as well as to be available for disclosure and plea discussion purposes with defence counsel.
- . Crown available to handle all plea negotiations for matters set for trial in trial courts on that particular day. This ensures that the trial Crown is able to continue the court without taking a recess to discuss the matter. (If no plea cutoff policy.)
- . Disclosure facilitated if police briefs kept in the courthouse. Alternative - community Crown present at





police station for this purpose.

- . Two stage disclosure procedure. Counsel acquires the first stage of disclosure setting out the evidence against the accused, occurrence report, written statement, copy of notes of oral statement if not in occurrence report, and other raw material that wills says are created from. Witness names, addresses, and phone numbers removed. The second stage takes place a few weeks later and is done by the Crown. At this stage names are disclosed and resolution discussions take place. (Windsor model)
- . Disclosure provided by the police liaison officer. This officer can receive offers from the defence and provide them to the Crown Attorney's office for a quick response. Officer determines if stage 2 disclosure should be requested by Crown.
- . Court imposed mandatory disclosure obtained prior to any trial date being set. Particularly where detailed brief is prepared prior to an accused's first appearance. (A difficulty with the mandatory obtaining of disclosure materials is defence opposition in certain types of cases.)
- . Mandatory Crown\defence discussions prior to a trial date being set.

##### 5. Police case liaison officers\Police court bureaus

**Rational:** A police bureau in the courthouse itself is of tremendous assistance to delay reduction efforts. Police briefs are present and immediately available for disclosure and discussions with counsel. Police assistance in calling off witnesses, and providing a liaison function between the defence, court office, and Crown Attorney's office is invaluable. Time and expense to the court and police can be reduced in addition to the inconvenience to witnesses who are subpoenaed and then not required. If a police case management office or bureau per se is not available or possible then a police liaison officer can be of immense assistance to the defence, Crown, and court.

##### **Procedure**

- . Police liaison can provide disclosure, receive defence offers, notify the defence of the Crown's position, call off witnesses, and move cases forward for earlier resolution. The savings to the police in terms of officer court time saved will more than overcome the costs of providing such an officer.
- . Monitor brief production
- . Screen police briefs



- . Ensure police and civilian witnesses notified

6. Quick production and preparation of police briefs.

**Rational:** Preparation time for police briefs is crucial when attempting to provide early disclosure. If police are unable to prepare their brief until shortly before trial there is no real opportunity for early disclosure, issue resolution, witness reduction, and plea negotiation. If a trial date must be set prior to any such preparation the trial lists will be filled with matters that could have been resolved earlier. The key to early resolution and a firm and accurate trial list is to have the brief prepared prior to a trial date being set so counsel can make an early decision and valuable trial time is not set aside.

**Procedure**

- . Police can institute guidelines that ensure detailed court briefs are prepared within time requirements. Although there is time and expense involved in preparing briefs for trials that may not be trials, the result is a saving of time and money for officers and witnesses who otherwise attend court only to have the matter resolved, or their evidence admitted or waived at the trial. If the detailed brief is copies of raw data then time and expense is limited to photocopying of existing material. Police only prepare willsayers for those cases set for trial that require them.
- . A detailed package can be prepared for an accused's first appearance. This package would contain a detailed synopsis, copies of signed statements by the accused, signed witness statements where available, an explanation of the strength of the Crown's case by outlining the nature of the evidence (i.e. fingerprint, forensic, eyewitness, statement), an indication of the impact on the victim and details of any injuries if applicable, and a copy of the occurrence report setting out full details of the matter. (see above re: detailed brief).

7. The screening of charges when they enter the system.

**Rational:** To ensure the proper charges are laid and the evidence is available to prove them. Excessive, unsubstantiated, or inappropriate charges ensure the likelihood that counsel will proceed to trial. Screening by senior police officers and then the Crown will assist in creating "real" and provable charges so court time can be accurately scheduled and counsel know the true offenses their client is charged with.



## Procedure

- . Duty Crown screens incoming cases to ensure that appropriate charges have been laid, there is a legal and evidentiary foundation for the charge, the proper evidence has been collected and witnesses noted, weaknesses in the case that can be repaired are.
  - . Crown election is noted on the file, time estimates are noted, and the case assigned a particular Crown at an early stage if so required.
  - . Restitution requests and Crown's sentence position can also be noted.
  - . Inventory review analysis of charges in system with a view to resolution. Files set for trial in a certain time period are reviewed to determine the appropriate charge, the appropriate disposition, and whether the Crown could prove its case. Letter can be sent, pre-approved by the local bar, to unrepresented accused notifying them of the opportunity to obtain free legal advice and resolve their matters. Duty counsel provided specially by Legal Aid twice a week for the purpose of assisting accused who responded to the Crown's offer to resolve their cases. This is for those cases in the system that have not been subject to front end screening.
  - . Follow up by police liaison officer of repairs to case, witnesses called off etc.
8. Early access by the accused to counsel and accommodation where possible of such counsel.

Rational: Delay in accused applying for Legal Aid, or in Legal Aid providing a certificate, result in the trial or resolution of cases being delayed pending retaining of counsel.

## Procedure

- . Notices to the accused to assist them in understanding the court process and how and where to apply for Legal Aid.
- . Reduction of confusion and time spent in court explaining procedures to the accused.
- . Assist accused in obtaining counsel at an early stage so the matter is not remanded continuously awaiting his/her application to legal aid.
- . Notice handed to the accused in first appearance court or, if the police are willing, upon release by the officer in charge in an effort to have accused prepared for their first court appearance.
- . Accused required to return with proof he/she has made an application. If further information must be supplied the accused can be remanded a short period and told to return





with a letter indicating he/she has supplied all the information requested. Accused cannot delay the process by electing to apply or supply the requested information at the last minute.

- . Easier access to Legal Aid offices in order to make an application. An office for applications can be opened in the court building itself or existing office hours can be extended.
  - . Duty counsel provided for special initiatives or courts.
9. Continual monitoring of the system and control of the case.  
The next step is always set once the prior is completed.

**Rational:** Monitoring of lists and scheduling is essential for effective courtroom utilization. If matters resolve before trial or issues and witnesses are reduced, the court should be notified so court time can be booked for other matters. As well, contact should be made with counsel prior to the trial date to ascertain the cases' status and counsel's intentions.

There is a reduction in inconvenience and expense to Crown witnesses by advising them in advance of guilty pleas, waivers, or adjournments. There is a reduction in inconvenience and expense to defence counsel and clients due to increased likelihood of a trial matter being reached. Increased availability of early trial dates for urgent cases due to the increased efficiency in the utilization of court time by virtue of docket balancing and more realistic time scheduling (due to information about changes to case status).

#### Procedure

- . Practice directions informing the bar of changes in procedures. I.E. s. 11(b) Charter delay argument direction requiring Applications under Section 24(1) of the Charter alleging a breach of Section 11(b) be in writing with Notice of application, written submissions, and transcripts.
- . Disclosure/pretrial procedures.
- . Communication of new initiatives to counsel: O.R.'s, C.C.C.'s or W.C.B.'s, a letter to the Criminal Lawyers' Association, calling a meeting of Bench and Bar, mailing to all counsel who have matters in the court, or posting the notice in well frequented areas.
- . Assignment of specified Crown to prevent delays due to "Crown shopping".
- . Form inserted in the brief indicating the nature of prior plea negotiations.
- . Notating Crown's election, length of time required,





pretrial required, special pretrial court recommended, referral to victim\witness program, Crown assignment required, and whether a full brief needs to be prepared.

- . Disclosure and adjournment forms to assist in ensuring all steps are taken and monitoring occurs.
- . Letters to defence counsel in advance of the date set for trial requesting them to advise the trial coordinator of any guilty plea, reduction of court time required, witnesses that can be called off, waivers of preliminary inquiries, and adjournment requests.
- . Further contact with counsel who do not respond to the first letter in order to ascertain their intentions.
- . Sanctions for those who do not cooperate. (i.e. Legal Aid/defence approval of letter to counsel preparing for removal from Legal Aid panel.)

#### 10. Communication

**Rational:** The most important aspect of an effective system is the opportunity for everyone to meet and discuss problems whether they involve delay reduction per se or not. Cooperative management and the smooth running of the court system depends on open and easily available lines of communication.

#### **Procedure**

- . Disclosure Crown
- . Bench\Bar or committee meetings
- . Assistance from other areas in the region in handling caseload.
  - . Phase II YOA
  - . Master calendars
  - . Extra judges, Crowns and staff
  - . Transfer of charges
- . Assistance within an area
  - . Sharing of resources between court levels: court clerks, reporters, and other support staff.
  - . Centralization

#### 11. Elimination of wasted time/reduction trial time lengths.

**Rational:** A great deal of available court time is wasted waiting for the arrival of counsel or the outcome of defence\Crown discussions. Trials occur which contain evidence that may be condensed or entered in a different fashion. Adjournments take place due to the unavailability of information on restitution, sentencing, and Legal Aid status.



## Procedure

- . Use of certificates of analysis in prosecuting over 80 charges.
- . Bail hearings can be expedited by the Crown (with the consent of the accused) reading in the allegations. If a consent release is being suggested the Crown could submit a form with suggested terms.
- . Sentencing can be expedited with the cooperation of the Probation office.
- . Duty counsel fill in slip of who they have seen or provide slip to client.
- . To assist in the processing of Legal Aid: clients should attend with all necessary financial information, assessment officer works out of the Legal Aid office, Assistant assists Director in answering correspondence from lawyers and conducts assessments himself if necessary, letters from counsel answered the same day unless extremely complex. It is also of assistance if: lawyers pick their certificates up directly rather than by mail, review of assessment officer's decision is conducted immediately, and a computer is used allowing for instant access to all file information.
- . Crown available to provide disclosure and resolve matters on the list for that day.
- . Assignment court starts before justice of the peace enters the courtroom.
- . Police officers present in court and arrange trial dates with accused and counsel prior to the J.P. entering.
- . Ascertain what the accused wishes to do (i.e. apply for Legal Aid).
- . Early referral to duty counsel.
- . Daily list of available dates updated and appropriately amended at the end of each court day.
- . J.P. then officially remands the accused and so notes the calendar.
- . Screening and notation of Crown election and length of trial.
- . Police assist congestion of the first appearance court by returning those arrested five days of the week rather than the Monday.
- . Numbering Crown briefs.
- . Order in which certain types of matters are called (i.e. least time consuming to most).
- . Accused told to remain in court until their matter is called.
- . List of custody accused with the nature of their appearance.



- . Names and phone numbers of counsel noted on the front of the brief.
- . Crown and defence elections being made when the trial date is set.
- . Staggering appearances in the first appearance court may also be of use.

## 12. Specialized courts/expediting cases.

**Rational:** Certain groups of cases have peculiarities that may be dealt with through special scheduling or speed of trial date. An example is domestic violence cases where the earlier the matter is heard the more likely the victim is willing to testify. Impaired driving cases tend to be resolved more often when a quick trial date is likely. Preliminary hearings tend to be waived. Specialized courts for such matters can assist in caseloading and resolution.

### **Procedure**

- . Specialized courtrooms may be created to operate as bail court, guilty plea court, preliminary inquiry court, and summary conviction court.
- . A victim/witness pretrial conference court could be created where the victims input is particularly desired for sentencing or alternative resolution purposes. This would "provide a means for early consultation by the Crown with the Victim and by the Defence with the accused to determine whether cases can be resolved or whether trial dates need be set" (per Andrejs Berzins). Crown screens and identifies suitable cases and, on consent of counsel, matter would be remanded to the pretrial court, the victim contacted, interviewed and notified of the date in the event they wished to attend personally. Investigating officers contacted where relevant, interviews of victims, duty counsel could be provided by Legal Aid for unrepresented accused.
- . Specialized court clinic for domestic assault offenses. Duty counsel provide advice to unrepresented accused and consult the pretrial Crown if the client wishes to discuss a possible resolution.
- . Shoplifting cases set for the end of an existing list within three months. If not reached it is remanded a further three months. If not reached on the second occasion it is withdrawn.
- . Fast-tracking of certain matters for trial. I.E. impaired driving\over 80 cases where only police witnesses were



involved.

- . Special procedure for private complaints which requires the complainant's attendance in court three months prior to the trial date to confirm the case will proceed. Failure to attend results in the charge being dismissed.









## RESOURCES

As a result of management plans submitted by the committees, the Ministry provided extra judges, Crown Attorneys and staff to support delay reduction efforts. A total of 13 judges, 24 Crown Attorneys and attendant support staff were provided to the six areas. It was made clear that these resources were early appointments and would, over time, eventually replace existing judges in jurisdictions where judges would be retiring. Six of the Crown positions were permanent additions in order to fulfil a duty Crown function.

A trial co-ordinator was provided to each of the six sites. Trial co-ordinators commenced a number of initiatives to reduce trial delay and increase effective courtroom utilization. They work closely with police court office bureaus or liaison officers, the Crown Attorney's office, and the judges in order to ensure effective scheduling of cases and to expedite and give special attention to those cases that require it. In addition, when extra court space becomes available as a result of the resolution of matters, the trial co-ordinator assists in ensuring that court time is used as efficiently and effectively as possible by scheduling other cases in those time blocks. Trial co-ordinators are also involved in contacting defence counsel in advance of trial dates, and requesting them to advise the trial co-ordinator of any guilty pleas, reduction of court time required, witnesses that can be called off, waivers of preliminary enquiries, and adjournment requests.

In addition to judges, Crown Attorneys, trial co-ordinators, and other support staff, the Ministry has: provided workshops on delay reduction for the six pilot sites, hired an expert from the United States to spend a day in three of the locations to provide his observations and recommendations, provided a computer system to the trial co-ordinators programmed specifically for their function (with back-up and support provided by Courts Administration's Program Development Branch), and has instituted in the delay reduction areas, as will be instituted province-wide by the end of 1992, an Integrated Courts Offenses Network computer system (ICON) which should be of great assistance in the monitoring and planning of caseload management techniques. Funding was also provided for backfill part-time legal services to permit an assistant Crown Attorney to conduct an inventory review analysis of existing cases in the system. This was found to be particularly useful in creating new court space, removing the need for witnesses to attend court, and reducing the issues and time involved in trial matters.



Six of the twenty-four assistant Crown Attorneys were provided to perform the duty Crown function. The purpose of the duty Crown is to ensure the availability of Crown Counsel to discuss case resolution with defence counsel. This Crown can resolve matters by way of guilty plea, and reduce issues and witnesses required for trial matters.

This Crown can also provide the function of assisting trial courts each day with those matters set for trial that indicate they wish to discuss a plea of guilty. In this fashion, the courtroom Crown is not required to ask for a recess to enable him or her to speak to counsel and the court time is preserved for trial matters. In addition, this Crown is able to balance the court lists and determine which cases have priority when a courtroom becomes available to assist another. The duty Crown also pre-screens files, provides disclosure, and is available for general advice to the police and public.

See Appendix A for Attorney General's press releases on new resources.









## PILOT PROJECT RESULTS

### Development of caseload management techniques

o Have learned the benefits that can be achieved through different initiatives and how those can best be accomplished. Initiatives include such things as:

- . early disclosure
- . early Crown/defence meetings to reduce issues, reduce time, and or resolve matters
- . judicially supervised pretrials on lengthy or complex matters
- . post charge screening of new cases
- . screening and review of existing cases in system
- . expedition of access of accused to counsel
- . police liaison officer assistance to Crown Attorneys in arranging disclosure, witness notification, brief perfection.
- . trial coordination to ensure court time is effectively scheduled
- . practice directions to the Bar to assist in understanding new initiatives and practices
- . improved procedures in first appearance courts
- . specialized courts to assist in scheduling and expedition of cases
- . notices to the accused to ensure awareness of Legal Aid and court procedures
- . how statistics can be used to monitor progress and highlight potential difficulties.

o Also learned the value of regular meetings and communication between judges, Crown Attorneys, defence counsel, Legal Aid, police, trial coordinators, and courts administration staff. Committees formed in late summer and fall of 1988.

o Results and pilots assisted in preparation of programme expanded regionally through caseload management courses. There are now twenty eight committees in existence.

o All areas increased their disposition rates (how many cases disposed of in a given period) from the rates at the beginning of the project. October 1988 to December 1990 increase ranged from 6% to 67%. Total increase in charges disposed of all six pilots was 35.7%. There was only a total decrease of .8% in pending charges due to an overall increase of 12.9% in charges received.



Negative results, other than increases in charges received, are highlighted.

Scarborough:

1988/1989	. increased charges disposed by:	20.31%
	. reduced pending charges by:	15.93%
	. despite increase in charges received by:	11.15%
	. time to trial reduced from 13 (between date and trial date) to 10 months.	
1989/1990	. increased charges disposed by further:	9%
	. charges received increased by:	22.95%
	. due to large increase in charges received charges pending increased over previous year by:	5.4%
	. time to trial was reduced to 6 months (set date to trial date) during year but increased to 7 months prior to <u>Askov</u> due to large increase in charges received. December 1990 - 6 months from sworn date.	
Fall 1988/ Dec 1990	. Two year increase in charges disposed:	31%
	. Two year increase in charges received:	36.6%
	. Decrease in pending:	11.4%

Brampton

1988/1989	. increased charges disposed by:	19.76%
	. charges received increased by:	10.56%
	. due to increase in charges received pending charges increased by:	11.57%
	. Time to trial reduced from 15 months (set date to trial date) to 13 months.	
1989/1990	. increased charges disposed by further:	32.96%
	. charges pending reduced by:	8.89%
	. despite increased charges received of:	7.35%
	. time to trial December 1990 was 12 months from sworn date.	
Fall 1988	. Two year increase in charges disposed:	59%
	. Two year increase in charges received:	18.7%
	. Increase in pending:	1.7%





Oshawa

1988/1989	. increased charges disposed by:	33.25%
	. increase in charges received of:	19.54%
	. due to increases in charges received pending charges increased:	56.13%
	. time to trial reduced from 15 months (17-18 Ajax) (set date to trial date) to 13 months.	
1989\1990	. increased charges disposed by further:	8.79%
	. pending charges reduced by:	32.71%
	(note: this pending is approximate)	
	. despite increase in charges received of:	1.61%
	. time to trial 12 mo. pre Askov.	
	December 1990 - 11 months from sworn date.	
Fall 1988/ Dec 1990	. Two year increase in charges disposed:	45%
	. Two year increase in charges received:	21.5%
	. Increase in pending:	5%

Newmarket

1988\1990	. increased charges disposed by:	31.42%
	. pending reduced by:	13.54%
	. despite increase in charges received of:	23.26%
	. time to trial 15 months maintained (set date to trial date).	
1989\1990	. increased charges disposed by further:	26.96%
	. increase in charges received of:	11.59%
	. due to increases in charges received pending increased by:	12.72%
	. time to trial 13 months from sworn date as of December 1990.	
Fall 1988/ Dec 1990	. Two year increase in charges disposed:	67%
	. Two year increase in charges received:	37.5%
	. Decrease in pending:	2.5%

Barrie

1988\1989	. there was a decrease in charges disposed	5.36%
	. charges received increased by:	4.86%
	. pending increased by:	24.42%
	. time to trial increased from 14 to 15 months (set date to trial date)	
	. assignment court created 4 - 5 months delay not reflected in above numbers.	





1989\1990	. increased charges disposed by:	11.95%
	. charges pending reduced by:	8.86%
	. charges received increased by:	11.67
	. time to trial reduced to eight months from sworn date as of December 1990. Assignment court discontinued October 1990.	

Fall 1988\ Dec 1990	. Two year increase charges disposed:	6%
	. Two year increase charges received:	17%
	. Increase in pending:	13.4%

Ottawa

1988/1989	. increased charges disposed by:	16.35%
	. charges received increased by:	8%
	. pending charges reduced by:	2.90%
	. time to trial reduced from 14.5 months (set date to trial date) to 10 months	

1989/1990	. decrease in charges disposed by:	4.12%
	. decrease in charges received by:	4.69
	. increase in pending by:	8.71%
	. time to trial was reduced to 8 months but then increased to 10 months. In December 1990 - 11 months from sworn date.	

Fall 1988/ Dec 1990	. Two year increase in charges disposed:	11.6%
	. Two year increase in charges received:	2.9%
	. Increase in pending:	5.6%

Based on statistical information provided by Grant Goldrich - see report January 4, 1990 contained in Appendix B.



### INITIATIVES IN PILOT PROJECTS

The following are examples of caseflow management techniques developed by the committees in the six locations:

1. improved access to Legal Aid through the extension of office hours available for application;
2. provision of duty counsel for special courts;
3. police preparation and provision of disclosure by the Crown at earlier opportunities;
4. Crown screening of incoming charges;
5. defence cooperation in responding to inquiries concerning waivers, admissions, and guilty pleas;
6. mandatory pretrials on lengthy or complex cases;
7. mandatory pretrials prior to trial date being set;
8. cases selected and grouped according to certain characteristics and each group is disposed of within a different time frame;
9. inventory review by Crowns: the identification of cases that can be brought forward for guilty pleas, resolution of issues and reduction of the number of witnesses required;
10. notices to accused persons providing them with information on Legal Aid and court procedures;
11. practice directions advising counsel of procedural changes resulting from specific delay reduction initiatives;
12. master calendars of courtrooms at all levels to improve courtroom efficiency by identification of courtroom availability.

See Appendix C for point form history of initiatives in each area.



## DETAILED DISCUSSION OF SUCCESSFUL DELAY REDUCTION INITIATIVES

The items that follow were areas that were explored by the committees and found to be useful in increasing disposition rates, reducing delays, and making the system work more effectively for all concerned. One of the key factors was the opportunity for everyone to meet and discuss problems whether they involved delay reduction per se or not. Cooperative management and the smooth running of the court system depends on open and easily available lines of communication. This covers pre Askov operations.

### Disclosure

Provision of disclosure material (as set out in the Attorney General's directive to Crown Attorneys) is not always sufficient to ensure counsel will resolve their cases prior to trial. The key is to get disclosure to them at an early date to ensure an early review of such material and early decisions with respect to guilty pleas, waivers, admissions, and reduction of witnesses required.

The benefits to the Crown of providing early disclosure are numerous. Early disclosure may lead to an early guilty plea which saves the Crown the necessity of preparing for a trial of that matter. The more often guilty pleas occur at an early stage the less they occur on the trial date. A reduction of guilty pleas on the trial date means not as many matters need be scheduled which in turn results in the Crown not receiving as many files for trial. It may also save the need for lengthy victim interviews. It will certainly reduce backlog as the matter will be out of the system not remaining as a "pending" matter.

Examples of how disclosure can be encouraged are as follows:

1. A two stage disclosure procedure. Counsel acquires the first stage of disclosure that sets out the evidence against the accused and witness wills that contain no names. The second stage takes place a few weeks later and is done by the Crown. At this stage names are disclosed and resolution discussions take place.<sup>1</sup>

2. Disclosure can be provided by the police liaison officer. This officer can receive offers from the defence and provide them to the Crown Attorney's office for a response. A quick response from the Crown is essential. If a further, more

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1. This is the Windsor model.





detailed meeting, is requested the Crown and defence meet for a resolution discussion with or without the officer in charge present.<sup>1</sup>

3. The court can require disclosure be obtained prior to any trial date being set. This is where the full brief is prepared prior to an accused's first appearance.<sup>2</sup>

4. The court can require Crown\defence discussions prior to a trial date being set.<sup>3</sup>

### Police Briefs

Preparation time for police briefs is crucial when attempting to provide early disclosure. If police are unable to prepare their brief until shortly before trial there is no real opportunity for early disclosure, issue resolution, witness reduction, and plea negotiation. If a trial date must be set prior to any such preparation the trial lists will be filled with matters that could have been resolved earlier. The key to early resolution and a firm and accurate trial list is to have the brief prepared prior to a trial date being set so counsel can make an early decision and valuable trial time is not set aside.

1. The police can institute guidelines that ensure full court briefs are prepared within thirty days of arrest. This is the procedure in Brampton and arose from a commitment made by the police representative on the Delay Reduction Committee. Although there is considerable time and expense involved in preparing briefs for trials that may not be trials, the result

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#### 1. Scarborough disclosure model.

2. This is the Newmarket model. A difficulty with the mandatory obtaining of disclosure materials is defence opposition. In certain types of cases, namely over 80 mgs., the defence is aware of a technical difficulty and does not want the Crown or Police to repair it. They fear if disclosure is mandatory these flaws will come to light. The solution to this is to require mandatory Crown screening of all cases, especially those related to impaired driving, to foreclose this argument. A modification is being discussed to return the accused in 7 days with full disclosure in 3 weeks as they are not obtaining counsel prior to first appearance.

3. Scarborough model. Defence reluctance to meet and alert the Crown to flaws in its case is alleviated by making exceptions when appropriate for certain types of trials - i.e. routine impaired\over 80 cases.





is felt to be a saving of time and money for officers and witnesses who attend court only to have the matter resolved, or their evidence admitted or waived at the trial. Briefs were being prepared for "trial" matters as this was the only method the defence could use to obtain the full brief. Avoiding this is an important element of delay reduction and is being instituted in Newmarket as well.<sup>1</sup>

2. A more detailed initial package can be prepared for an accused's first appearance. This package would contain a detailed synopsis, copies of signed statements by the accused, signed witness statements where available, an explanation of the strength of the Crown's case by outlining the nature of the evidence (i.e. fingerprint, forensic, eyewitness, statement), an indication of the impact on the victim and details of any injuries if applicable.<sup>2</sup>

### Screening and review of inventory

Screening of incoming charges is essential to effective caseload management. Excessive, unsubstantiated, or inappropriate charges ensure the likelihood that counsel will proceed to trial. Screening by senior police officers and then the Crown will assist in creating "real" and provable charges so court time can be accurately scheduled and counsel know the true offenses their client is charged with.<sup>3</sup>

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1. The procedure in Newmarket is also to reduce the number of court appearances by an accused prior to trial and to assist the Court in creating more accurate trial lists. Their procedure requires an accused who is released to attend court in four weeks. The accused is handed a notice upon release by the police or justice of the peace which provides information on court procedures, where to apply for Legal Aid, and what to bring for the application. The police brief is fully prepared (excepting those cases that are complex or need further investigation) and this disclosure is available before the accused returns to court. Counsel can obtain this directly from the police by mail for a fee or it can be obtained free of charge from the Crown Attorney's office. May be modified as indicated on previous page. Synopsis and record available on first appearance if it is 7 days from arrest.

2. Scarborough, through the cooperation of their police divisions, is instituting this system.

3. Newmarket initiated this screening process prior to disclosure being provided and the accused's first appearance.



The six pilot project areas conducted an inventory review analysis of charges in their systems with a view to resolution. Files set for trial in a certain time period were reviewed to determine the appropriate charge, the appropriate disposition, and whether the Crown could prove its case. In Scarborough's case a letter was sent, pre-approved by the local bar, to unrepresented accused notifying them of the opportunity to obtain free legal advice and resolve their matters. They could attend court and speak to a duty counsel provided specially by Legal Aid twice a week for the purpose of assisting accused who responded to the Crown's offer to resolve their cases.<sup>1</sup>

#### Police case liaison officers\Police court bureaus

A police bureau in the courthouse itself is of tremendous assistance to delay reduction efforts. Police briefs are present and immediately available for disclosure and discussions with counsel. Police assistance in calling off witnesses, and providing a liaison function between the defence, court office, and Crown Attorney's office is invaluable. Time and expense to the court and police can be reduced in addition to the inconvenience to witnesses who are subpoenaed and then not required.<sup>2</sup>

If a police case management office or bureau per se is not available or possible then a police liaison officer can be of immense assistance to the defence, Crown, and court. The police liaison can provide disclosure, receive defence offers, notify the defence of the Crown's position, call off witnesses, and move cases forward for earlier resolution. The savings to

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1. In Scarborough Assistant Crown Attorney John McMahon examined all cases set for trial in January through the first week of March 1990. He also spoke with counsel who approached him on matters that had not yet been set for trial. There was a good response from defence counsel and unrepresented accused to his inventory review. One thousand one hundred and eighty three cases were reviewed. One hundred ninety three cases were resolved at a savings of 285 civilian and 328 police witnesses. One hundred and eighty nine potential trials and twenty five complete court days in the "specials" court were saved. The cost benefit to the Metropolitan Toronto Police was \$49,000.

2. The Brampton police case management office in 1989 saved 1,354 civilian witnesses and 1,423 police witnesses. In addition they provided assistance, disclosures, called counsel and made arrangements for waivers in and out of Peel as well as bringing forward cases.



the police in terms of officer court time saved will more than overcome the costs of providing such an officer.<sup>1</sup>

### Legal Aid

Some of the delays in setting a date for trial are attributed, not always fairly, to delays in obtaining Legal Aid. An accused may make several appearances claiming he has applied and not heard the result. The court is often not aware of the status of the application or the veracity of this claim.

One solution to this delay is to require the accused to return with proof he has made an application. If further information must be supplied the accused can be remanded a short period and told to return with a letter indicating he has supplied all the information requested. In this fashion the accused cannot delay the process by electing to apply or supply the requested information at the last minute. A control has been built into the system.

One of the contributions made by Legal Aid was providing the accused with easier access to Legal Aid offices in order to make an application. An office for applications can be opened in the court building itself or existing office hours can be extended.<sup>2</sup>

Legal Aid has also been of assistance in providing duty counsel for special initiatives or courts. Any consideration of such initiatives requires consultation and cooperation with Legal Aid.<sup>3</sup>

One of the small ways that court time can be utilized more efficiently was illustrated by the time savings achieved in Brampton by having duty counsel fill out a slip with their name

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1. The Scarborough police liaison officer saves approximately 60 police and 40 civilians a month from appearing in court. This is a savings of \$108 per officer for a total of approximately \$6,000 a month.

2. An office was opened in the Brampton provincial courthouse. Office hours were extended in Scarborough by two hours per day and the Newmarket applications office was extended from three days to four.

3. Legal Aid provided duty counsel coverage for a special domestic assault clinic in Scarborough held two days a month where accused persons charged with such offenses could attend, speak to duty counsel, ascertain the Crown's position, and





resolve their matter if so desired.

so the accused knew which duty counsel they had spoken to and could so advise the court. The result was that the court knew who to page and time was saved.<sup>1</sup>

Legal Aid is as concerned as the Court with the expeditious processing of applications and efforts have been made and achieved towards this goal. In Brampton, where a special early trial date court was created for impaired driving cases, application status was determined within a week. In Ottawa the response time is measured in days.<sup>2</sup>

### First appearance court

The pilot sites experienced long lists and equally long days in their first appearance/assignments courts. Alternatives were and are still being tried. In Ottawa the dates are set on a take a number basis and there are two clerks working in the court. There is a Crown available outside the court to provide disclosure and resolve matters on the list for that day.

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1. Those counsel who did not cooperate soon found themselves being paged by the physical description given by the accused. Being paged as the "short, fat, balding duty counsel" seemed to provide the motivation necessary to fill out these slips.

2. According to Gord McNaughton, assistant to the Ottawa Area Director of Legal Aid, Ottawa's speed in processing applications is attributable to a number of factors:

1. Clients attend with all necessary financial information.
2. Assessment officer works out of the Legal Aid office. Officer has 20 years experience.
3. Assistant, Gord McNaughton, assists Director in answering correspondence from lawyers and conducts assessments himself if necessary.
4. Letters from counsel are answered the same day unless extremely complex.
5. Many lawyers pick their certificates up directly rather than by mail. Office is across the street from the courthouse.
6. Review of assessment officer's decision is conducted by Gord McNaughton and only takes minutes.
7. A computer has been installed allowing for instant access to all file information. This was not a factor in reducing their time to two days but has increased the speed at which things in the office can be done.



In Newmarket<sup>1</sup> the assignment court officially starts before the justice of the peace enters the courtroom. Police officers are present in the court and arrange trial dates with accused and counsel prior to the J.P. entering the courtroom. They also ascertain what the accused wishes to do (i.e. apply for Legal Aid). This assists in early referral to duty counsel. The result is that all discussions regarding available dates, vacation times, length of trial, etc. take place before the judge or J.P. enters. A daily list of available dates is printed up, copies are made for the court officer, J.P., and defence counsel. These are updated and appropriately amended at the end of each court day. The J.P. then officially remands the accused and so notes the calendar. If the Crown has screened the case prior to this point a notation can be made of Crown election and length of trial. The police have also assisted the congestion of the first appearance court by returning those arrested over all five days of the week rather than the Monday.

Matters such as numbering Crown briefs, the order in which certain types of matters are called (i.e. least time consuming to most), accused being told to remain in court until their matter is called, preparing a list of custody accused with the nature of their appearance, number on the list, and readiness to proceed, names and phone numbers of counsel noted on the front of the brief, and Crown and defence elections being made when the trial date is set are all initiatives that can make the first appearance and assignment court run more smoothly and efficiently.<sup>2</sup>

Staggering appearances in the first appearance court may also be of use. In Brampton, for example, they set the first appearances at 9:00 with all others at 10:30.<sup>3</sup>

### Duty Crowns

One of the most effective innovations in the pilot sites was the creation of the duty Crown. The duty Crown performs a number of functions with the priority of these functions varying from area to area.

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1. Soon to be adapted and adopted by Scarborough.
  2. From a memo by Rita Koehl on 407 court (Scarborough First appearance and set date court).
  3. There is currently a subcommittee studying how to rearrange and improve the assignment court which will then report to the Delay Reduction Committee at large.



One of the functions of the duty Crown is the screening of incoming cases to ensure that appropriate charges have been laid, there is a legal and evidentiary foundation for the charge, the proper evidence has been collected and witnesses noted, weaknesses in the case that can be repaired are, Crown election is noted on the file, time estimates are noted, and the case assigned a particular Crown at an early stage if so required.

Another function of the duty Crown is to be available for advice to the public and police as well as to be available for disclosure and plea discussion purposes with defence counsel. In some areas there is a Crown who handles all plea negotiations for matters set for trial in trial courts on that particular day. This ensures that the trial Crown is able to continue the court without taking a recess to discuss the matter.<sup>1</sup> Professor Ernest Friesen, an expert on delay reduction and caseload management, observed several of our provincial courts and observed that more time was wasted by "may I have the courts indulgence" than anything else.

Where Crown briefs are not kept in the courthouse a Crown can be placed in the police division or location where briefs are kept in order to provide disclosure or discuss matters with the defence. In Durham Region this Crown is referred to as the community Crown. The community Crown was instituted in 1987 to facilitate access to disclosure. This Crown is available at the police station from 8:30 a.m. to 4:45 p.m. for disclosure, victim interviews, C.A.S. and police consultation. In addition the Crown has a duty Crown present two half days a week outside the assignment court. This is to review files, make elections, and speak with counsel in an effort to reduce issues. Counsel

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1. In Brampton the duty Crown commences the day in the first appearance court talking to any counsel that wish to discuss a resolution at this stage. After an hour or so in this court the Crown then moves to the trial courts assisting with defence/Crown discussions and resolving matters by way of plea that have been set for trial. In Newmarket this Crown is referred to as the supervising or "pit boss" Crown and performs the same role in assisting the trial courts. This is a separate and distinct position from the duty Crown who screens incoming cases and is available to discuss these cases with counsel. Scarborough's duty Crown is available in the Crown's office for disclosure/resolution discussions each day. This is essential as the Court will not usually permit counsel to set a trial date until they have met with this Crown.





can obtain disclosure at the assignment court or otherwise meet personally with a Crown to obtain disclosure.<sup>1</sup>

In Ottawa there is a duty Crown present in the Crown's office to discuss cases with defence counsel, handle public inquiries, and provide advice to the police. Additionally, a Crown screens all cases prior to a trial being set and aims at screening prior to first appearance if possible. This is facilitated by all police forces (save one) having their files and court offices in the courthouse itself. There is a Crown, providing staff is available, five days a week for the purpose of dealing with matters formerly before the victim/accused pretrial conference court.

Commencing August 1, 1990, Newmarket placed the duty Crown outside the first appearance court. This was to coordinate with the new expedited brief procedure. The Crown Attorney's office, on an experimental basis, assigned all those cases that require assignment to the Duty Crown present when they enter the system. This was intended to prevent delays due to "Crown shopping". Additionally a yellow form was to be used for insertion in the brief indicating the nature of prior plea negotiations. This will ensure that Crown positions will not be undermined without the prior consultation of the initial Crown.<sup>2</sup> People do not usually avail themselves of this Crown's services on first appearance so the Crown is also able to review and repair cases as well as monitor future caseloads.

### Reduced hearing times

Measures can be taken to improve the speed at which trials, bail hearings, and sentences take place. One method of reducing trial time is the use of certificates of analysis in prosecuting over 80 charges.<sup>3</sup> Bail hearings can be expedited by the Crown (with the consent of the accused) reading in the allegations. If a consent release is being suggested the Crown could submit a form with suggested terms. Sentencing can be

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1. Mike Gillen and John Scott discuss their procedure and provide supporting materials in their paper "Durham Region Crown Review and Disclosure Process."

2. The Ottawa Crown's office also uses forms to note such discussions as well as the Crown's election, length of time required, pretrial required, special pretrial court recommended, referral to victim\witness program, Crown assignment required, and whether a full brief needs to be prepared.

3. Instituted as a committee initiative in Ottawa and will be in Peel once police training complete.





expedited with the cooperation of the probation office. This cooperation in Durham Region led to a reduction in time required for a presentence report from three weeks to three days.

### Trial coordination

Monitoring of lists and scheduling is essential to effective courtroom utilization. If matters resolve before trial the court should be notified so that court time can be booked for other matters. As well, contact should be made with counsel prior to the trial date to ascertain the matters status and counsel's intentions.

This role was undertaken by trial coordinators in the six pilot project areas. The trial coordinators commenced a number of initiatives to reduce trial delay and increase effective courtroom utilization including:

1. Sending letters to defence counsel in advance of the date set for trial requesting them to advise the trial coordinator of any guilty plea, reduction of court time required, witnesses that can be called off, waivers of preliminary inquiries, and adjournment requests.
2. Further contact with counsel who do not respond to the first letter in order to ascertain their intentions.
3. In person contact with counsel regarding trial matters.
4. Periodic monitoring of trial lists for extra time.
5. Scheduling of those cases that will take a day or more of court time or are of particular urgency as well as coordinating pretrials.
6. Rescheduling of court time that can be reallocated as a result of indicated guilty pleas or waivers.
7. Responsibility for the entry of data into the trial information computer system.
8. Responsibility for the production of reports from the computer system.
9. Updating of court diaries.
10. Liaison with the Crown Attorney's office, police, defence counsel, and the Judges regarding court time allotment and procedures.



11. Member of the local Delay Reduction Committee.
12. Daily monitoring of trial lists in order to balance the court dockets.

In addition to these duties each region has unique systems for ensuring the court is used effectively. An example is Barrie where the trial coordinator has distributed a form to defence counsel to prompt the notification of the coordinator of any changes in case status. In Scarborough a second, strongly worded, letter is sent to counsel who do not respond to the first.

The trial coordinators are achieving :

1. Reduction in inconvenience and expense to Crown witnesses by advising them in advance of guilty pleas, waivers, or adjournments.
2. Reduction in inconvenience and expense to defence counsel and clients due to increased likelihood of a trial matter being reached.
3. Increased availability of early trial dates for urgent cases due to the trial coordinator's scheduling system.
4. Increased efficiency in the utilization of court time by virtue of docket balancing and more realistic time scheduling (due to information about changes to case status).

These functions may take place between a number of individuals in your particular jurisdiction such as court administrators, Crowns, and judges secretaries or assistants.

The trial coordination function works particularly well when operating in concert with a police case management office or police court liaison officer. This joint effort in Barrie resulted in 237 hours of court time freed in the first five months of 1990.

### Practice Directions<sup>1</sup>

Due to the changes taking place in their jurisdiction, several of the courts issued practice directions informing the bar of changes in procedures. One such practice direction related to a complete change in the manner in which s. 11(b) Charter delay arguments were brought prior to Askov. This was a direction issued from Peel which required "Applications under



Section 24(1) of the Charter alleging a breach of Section 11(b) to be in writing". Notice of application, written submissions, transcripts were required. The prosecutor had to be served and had fifteen days to reply in writing. A provision was made that a judge may abridge any of these time limits. The result of this directive was a decrease in the amount of time required for such arguments. Whereas before they took up to two hours they were being dealt with in fifteen minutes. An unanticipated side effect of this is that counsel's arguments are more detailed and prepared and as a result they appeared to be succeeding more often than they did formerly (pre Askov).

Another practice direction that was published was regarding the Scarborough disclosure/pretrial procedure. Other methods of alerting counsel, other than the O.R.'s, C.C.C.'s or W.C.B.'s, are a letter to the Criminal Lawyers' Association, calling a meeting of Bench and Bar, mailing to all counsel who have matters in the court, or posting the notice in well frequented areas.

Garth Burrow, an Assistant Crown Attorney in Newmarket, wrote to the Criminal Lawyer's Association Newsletter explaining Newmarket's policy of proceeding with trial matters first with guilty pleas occurring in a special afternoon court. This policy ensures that the large blocks of time available for trials in the morning are, in fact, used for trials.

### Notices to accused<sup>2</sup>

Several jurisdictions have prepared notices to the accused to assist them in understanding the court process and how and where to apply for Legal Aid. This reduces the confusion and time spent in court explaining procedures to the accused. Another benefit is assisting the accused in obtaining counsel at an early stage so the matter is not remanded continuously awaiting his application to Legal Aid. This notice can be handed to the accused in first appearance court or, if the police are willing, upon release by the officer in charge in an effort to have accused prepared for their first court appearance.

### Pretrials

The pretrial is a successful tool in reducing the amount of time scheduled for trials. The necessity for a pretrial can be determined by a number of factors such as time requested, nature of charges, number of charges, and complexity of case. Many of the pilot sites required a pretrial to narrow





issues and witnesses if a day or more of trial time was requested. Pretrials are viewed as very successful in reducing trial time requested and used.

In Ottawa a case manager Crown is used to review cases set for pretrial and attend pretrials. This Crown also follows up issues, identifies those cases that require assignment, discusses resolutions with defence, and monitors those cases set for a day or more of court time to ensure accuracy of times and Crown assignment.

### Specialized Courts

Specialized courts have been created, attempted and proposed as a method of dealing with backlog and incoming cases. These courts range from the creation of specialized courts such as bail court, guilty plea court, preliminary inquiry court, and summary conviction court to a victim/accused pretrial conference court (where the victims input is particularly desired for sentencing or alternative resolution purposes).

The victim/witness pretrial conference court was instituted in Ottawa as an experimental initiative of their delay reduction committee.<sup>1</sup> This conference was to "provide a means for early consultation by the Crown with the Victim and by the Defence with the accused to determine whether cases can be resolved or whether trial dates need be set."<sup>2</sup> Cases that were considered were offenses where the accused and victim knew each other (i.e. minor assaults, threatening, harassment), where restitution was the main concern (i.e. mischief, fraud accommodation/transportation), minor multi accused charge/countercharge situations, and peace bond applications.

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1. This court was viewed as successful by all Committee members. The court achieved a high resolution rate. Over a period of twelve special pretrial courts 512 accused were dealt with for an average of 43 per court. 71% of the cases were resolved. Of those resolved 28% plead guilty. Of the remaining cases 23% were withdrawn outright, and the rest were withdrawn with restitution made (37%), peace bond ordered (33%), apology made (6%), and mediation (3%). Of the 512 accused, 27% were spousal assaults. Of these 35% plead guilty, 48% set trial dates, 6% were bench warrants, and 10% were withdrawn. (From February 25/1990 report of Andrejs Berzins). The Crown elected to continue the project process in the regular trial courts as opposed to one particular court.

2. Andrejs Berzins, "RE: Victim/Accused Pre-trial Conferences" July 24, 1989. Ottawa/Carlton Crown Attorney's memo to the defence. See Appendix F.





A Crown would screen and identify suitable cases and on consent of counsel the matter would be remanded to the pretrial court, the victim contacted, interviewed and notified of the date in the event they wished to attend personally. Investigating officers were also contacted where relevant. Interviews of victims also took place on the date and duty counsel were provided by Legal Aid for unrepresented accused. Charges were resolved by guilty plea, setting a trial date, withdrawal, peace bond, or adjourned for purposes such as counselling, mediation, and/or restitution.<sup>1</sup>

A successful application to the Fund for Dispute Resolution was made and a mediator from the Dispute Resolution Centre of Ottawa is present one day a week in the courthouse to deal with mediation arising out of victim\accused pretrial conferences.

A specialized court clinic for domestic assault offenses was instituted in Scarborough and was very successful.<sup>2</sup> The Crown screened and remanded appropriate cases to this court. These were cases involving unrepresented accused where the offence did not involve injuries. The clinic was held every Tuesday afternoon by duty counsel provided by Legal Aid. Duty counsel provided advice to unrepresented accused and consulted the pretrial Crown if the client wished to discuss a possible resolution.

A similar clinic for shoplifting cases was not a success and was discontinued.

Prior to Askov Brampton dealt with its minor (value under \$100 and no record) shoplifting cases expeditiously. The case was set for the end of an existing list within three months. If it was not reached it was remanded a further three months. If not reached on the second occasion it was withdrawn. This was rare. Those cases either resolved themselves by guilty plea or were used when other courts were looking for a small matter to assist with at the end of the day.

Brampton also created a subcommittee to study fast-tracking of certain matters for trial. The subcommittee and committee instituted a fast track for impaired driving\over

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1. Ibid.

2. This was later discontinued due to their successful resolution of cases in the first appearance court. What was accomplished during the specialized court is now done in the first appearance court.



80 cases where only police witnesses were involved. All cases were set within 30 to 90 days. Despite some initial problems with defence counsel being provided with a very limited extremely early choice of date, this court worked well. This court was created as impaired driving, while only 10% of the charges, took a disproportionate amount of court time. The results seemed to indicate that pleas occurred earlier than on the trial date and there was an actual increase in the number of guilty pleas.

A special procedure was created in Peel for private complaints which requires the complainant's attendance in court three months prior to the trial date to confirm the case will proceed. Failure to attend results in the charge being dismissed.

A specialized court to deal with guilty pleas only was created in Newmarket. This court is scheduled to commence every afternoon in the bail/set date court. Barrie as well has a court designated for guilty pleas which also deals with set date matters.

One initiative, an experiment in Ottawa, involves the evidence of witnesses taken outside the courtroom for preliminary inquiry purposes. Any disputed questions can be dealt with in the courtroom before a judge. If satisfied with the extent of information obtained the defence then consents to a waiver of the preliminary inquiry. This has been tried once and was very successful. The Crown, defence, witness, and court reporter need to be present but the accused and judge do not need to attend until the matter is before the court for a waiver. This concept has been presented to the local bar who appear to be quite interested.

#### Assistance from others

Several areas obtained assistance from other jurisdictions in handling their caseload. Oshawa obtained the assistance of Bowmanville in taking five impaired cases a week for trial. In addition judges from outside of Oshawa (Cobourg and Peterborough) provided assistance for a total of three days a week.

Durham, Newmarket, Ottawa, and Barrie had their Phase II Y.O.A. matters assumed by their Family Court Bench.

Master calendars regarding courtroom utilization were prepared in several jurisdictions. This ensured that family or District courtrooms did not sit empty while the Provincial Court required extra space.



In Ottawa there have been two committees set up to ensure effective sharing of resources between the court levels. There is a committee of trial coordinators from the District, Supreme and Provincial Courts to organize courtroom space and an integration committee of court administrators to share court clerks, court reporters, and other support staff.

Centralization of courts or administration can be of benefit as well. The administrative responsibility for Midland was transferred to Barrie and the Ajax court was centralized in Oshawa.

### Statistical data available to manage courts

The Integrated Courts Offenses Network system is being installed and implemented across the province. It should be fully installed and operational province wide by the end of 1992.

ICON will be able to provide the number of bench warrants ordered and executed, charges received, pending and disposed, counts available by specific charge (i.e. over 80), number of dispositions by type, number of appearances by type of charge, number of Crown elections\accused elections, disposition times, and the length of trials by type.

Statistical data on the length of trial times is crucial for accurate scheduling. A statistical survey conducted in the United States comparing judge and attorney time estimates for criminal jury trials with actual time used illustrates the difficulties involved. The estimates were much higher than the actual time required.<sup>1</sup>

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(1) Sipes, Dale A. and Mary E. Oram, On Trial: the length of Civil and Criminal Trials. (Williamsburg, Virginia, National Centre for State Courts, 1988). See Appendix G.





## **MATERIAL AVAILABLE**

1. There are management plans prepared for all areas which resulted in them receiving additional resources. The plans outlined set out the current situation, suggesting initiatives and recommendations for backlog reduction and indicated resource requirements.
2. There is an Organizational Service Paper prepared by Judge Halikowski of Durham Region which is an extensive review of that system and a proposed operational model for further implementation of delay reduction in the area.
3. Scarborough Delay Reduction Pilot Project Report by John McMahon outlining the effectiveness of the inventory review analysis proceeded with by the Crown Attorney's office.
4. Report from Andrejs Berzins, Q.C., Crown Attorney in Ottawa outlining their procedure for the Victim/Accused Pre-trial Conference court.
5. News communiques relating to delay reduction initiatives and appointments of additional judges and resources.
6. Initiative reports outlining particular initiatives taken in each jurisdiction.
7. Statistical ICON management information reports on each of the six pilot projects. Reports are available for all systems on ICON. There are also reports available for the manual courts.
8. Detailed paper outlining practical aspects of delay reduction prepared by Nancy Dawson, July, 1990 outlining recent caselaw and initiatives that have been successful in pilot project areas. (Major portion contained within this report).
9. Court Reform Update Bulletin profiling delay reduction in the Provincial Criminal Courts.
10. Books and articles relating American experience with caseload management in civil and criminal courts.







## APPENDIX A





# NEWS RELEASE COMMUNIQUÉ

Ministry of  
the Attorney  
General

Ministère  
du Procureur  
général

## ATTORNEY GENERAL ALLOCATES RESOURCES TO REDUCE BACKLOG IN SCARBOROUGH

MAY 26, 1989

TORONTO -- In response to results achieved by the Scarborough Delay Reduction Committee, Attorney General Ian Scott today announced that Scarborough will receive additional resources to help reduce the backlog of court cases in the system.

Two judges will be appointed early and eventually will replace existing judges in other jurisdictions who will be retiring. In addition, three Assistant Crown Attorneys will be appointed on a term basis and a fourth Assistant Crown Attorney will be hired on a full-time, permanent basis.

"The Scarborough Committee has made remarkable progress in effectively reducing court delays by using existing resources", said Mr. Scott. "As I have indicated in the past, the Government is willing to consider the allocation of additional resources when a delay reduction committee has developed a management plan and demonstrates that new resources are clearly needed to further reduce backlog."

By introducing various management techniques and initiatives, such as the appointment of a Trial Liaison Officer, the Committee has made it possible to reduce the number of backlog cases to the point where the intake of cases no longer exceeds the number disposed of.

The Scarborough Delay Reduction Committee was formed in November 1988. Chaired by Senior Judge Alexander Davidson, the Committee is comprised of members of the judiciary; crown attorneys; representatives from the defence bar, legal aid, police, courts administration, and the Trial Liaison Officer.

over...





- 2 -

Scarborough is one of six existing pilot projects established to examine various means of reducing backlog in the court system in Ontario.

- 30 -

Contact:

Beth Boswell  
Minister's Office  
(416) 326-4423

Margot White  
Court Reform Task Force  
(416) 326-4688





# NEWS RELEASE COMMUNIQUÉ

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## ATTORNEY GENERAL ANNOUNCES PROVINCIAL COURT JUDGE APPOINTMENTS

March 23, 1990

TORONTO -- The appointments of Annemarie Erika Bonkalo, Bruce Edward MacPhee and S. Rebecca Shamai as Provincial Court Judges for the Judicial District of Peel (Criminal Division) were announced today by Attorney General Ian Scott.

These appointments fulfil the commitment the Attorney General made to the Brampton Delay Reduction Committee upon receipt of its management plan. That Committee is comprised of judges, Crown Attorneys, defence counsel, court administrators and the police, and meets regularly to resolve issues involving delay in the courts. Their plan is working and is already showing promising results. These new appointments will permit further progress to be made in this co-operative effort to reduce the backlog in the courts in Brampton. This brings to 10 the total number of new judges appointed as part of the overall plan to rid the courts of backlog and delay.

Ms. Bonkalo received her Masters Degree in Criminology from the University of Toronto prior to graduating from Queen's University Law School. Following her call to the Bar in 1978, Ms. Bonkalo was an Assistant Crown Attorney in the Judicial District of Peel where she prosecuted in all levels of court. Presently, she is a part-time Assistant Crown working primarily in the Provincial Court.

A one-year course of study on juvenile justice for the Bar Admission Course was prepared by Ms. Bonkalo who has also lectured to young people on civic responsibility and the criminal consequences of deviant behavior.

Graduating from the University of Windsor Law School, Bruce MacPhee has spent 12 years in private practice in Cornwall following his call to the Bar. The greatest portion of his practice is spent in Criminal Law although Mr. MacPhee is active in all aspects of the legal profession.



Since 1980, Mr. MacPhee has served as a part-time Assistant Crown Attorney in Cornwall, L'Orignal, Brockville and Ottawa. For 5 years he was also standing agent for the Ministry of Justice in narcotics prosecutions in the Counties of Stormont, Dundas and Glengarry.

Involved in his community, Mr. MacPhee was a Co-founder and past Chair of Maison P.C. Bergeron Home, a community resource facility established to house underprivileged young offenders and parolees. He is a Trustee and Vice-Chairman of the Roman Catholic School Boards of Stormont, Dundas and Glengarry, and is also Director and Claims Chairperson of the Ontario School Board's Insurance Exchange. In addition, Mr. MacPhee is Director of Canadian Surgical Eye Expeditions, a non-profit organization established to perform critical eye care surgery in impoverished Third World locations.

Rebecca Shamai graduated from Osgoode Law School, was called to the Bar in 1978 and then joined the Commission on Freedom of Information and Privacy as Principal Investigator. She was in private practice for eight years until 1988 specializing in Criminal Law, during which time she co-authored a report published by Status of Women Canada entitled A Feminist Review of the Criminal Law. In 1988, Ms. Shamai joined the Provincial government in the Legal Services Branch of the Ministry of the Environment. Presently, she is Senior Policy Advisor for Justice Issues with the Ontario Women's Directorate. Ms. Shamai is bilingual.

A member of the Board of Directors of the Elizabeth Fry Society of Toronto since 1984, Ms. Shamai chaired its Public Action Committee, prepared briefs to the Canadian Sentencing Commission and organized a forum reviewing an amendment to the Criminal Code relating to prostitution. She has also been involved on the Right to Privacy Committee and Women's Canadian ORT (Organization for Rehabilitation and Training), an organization dedicated to providing technical training for those people living in underdeveloped countries.

The appointments of Ms. Bonkalo, Mr. MacPhee and Ms. Shamai are effective April 2, 1990.

Reference:  
Michelle Salt (416) 326-2210







# NEWS RELEASE COMMUNIQUÉ

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## ATTORNEY GENERAL IAN SCOTT ANNOUNCES PROVINCIAL COURT JUDGE APPOINTMENTS

March 23, 1990

**TORONTO --** The appointments of **Mary Jane Hatton** and **Paul Henry Reinhardt** as Provincial Court Judges for the Judicial District of York were announced today by Attorney General Ian Scott.

Ms. Hatton is assigned to the Family Division, while Mr. Reinhardt has been appointed as a Judge in the Criminal Division.

Ms. Hatton was called to the Bar in 1976 after graduating from the University of Western Ontario Law School. She has extensive experience in the areas of family, young offender and mental health law having held positions as Counsel and Senior Counsel with the Children's Aid Society of Metropolitan Toronto. As a sole practitioner in Toronto, she has specialized in these areas.

An active Board member and member of the Children's Services and Juvenile Justice Committee since 1980, Ms. Hatton served as Chair of the Board of Directors from 1989 - 1990. She is also Chair of the Board of Inquiry of the Public Complaints Commission which hears civilian complaints against police. As a member of the Family Law Section of the Canadian Bar Association Ms. Hatton was on the committee which presented a brief to the Zuber Inquiry studying court reform, and has been active on numerous committees formulating policies and briefs on diverse social and legal issues.

After studying for his Bachelor of Arts at Stanford University in California and receiving his Masters in Political Science from the University of Toronto, Paul Reinhardt graduated from Osgoode Hall Law School. He entered private practice, concentrating in the area of Criminal Law, after his call to the Bar in 1976.



Mr. Reinhardt is a member of the Criminal Lawyers' Association, the Municipal section of the Canadian Bar Association, Ontario Branch, the National Association of the Counsel of Children (U.S.) and in 1974 was a member of the Steering Committee of the Law Union of Ontario, an organization of lawyers, law students and legal workers. An active member of his community, Mr. Reinhardt has served on the Board of Directors for Women's Hostels Inc. (Nellie's), Metro Tenants Legal Services, Grange Area Co-operative Homes Inc. and University Settlement House.

Mr. Reinhardt is being appointed to replace Judge Elizabeth Earle-Renton who will be transferring to Newmarket under the Delay Reduction Project. This appointment represents one of the two appointments which will fulfil the commitment the Attorney General made to the Newmarket Delay Reduction Committee upon receipt of its management plan. That Committee is comprised of judges, Crown Attorneys, defence counsel, court administrators and the police, and meets regularly to resolve issues involving delay in the courts. Their plan is working and is already showing promising results. These new appointments will permit further progress to be made in this co-operative effort to reduce the backlog in the courts in Newmarket. This brings to 10 the total number of new judges appointed as part of the overall plan to rid the courts of backlog and delay.

These appointments take effect April 2, 1990.

Reference:  
Michelle Salt (416) 326-2210





# NEWS RELEASE COMMUNIQUÉ

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## ATTORNEY GENERAL ANNOUNCES APPOINTMENT OF FIVE PROVINCIAL COURT JUDGES

May 18, 1990

TORONTO -- Attorney General Ian Scott today announced the appointments of **James C. Crawford**, **Kathleen E. McGowan**, **David McClelland Stone**, **Colin R. Westman** and **Theo Wolder** as judges to the Provincial Court (Criminal Division).

Messrs. Crawford and Stone will be assigned to the Judicial District of Durham and represent two appointments identified by the Delay Reduction Committee. Mr. Westman will be serving in the Judicial District of Waterloo and will fill the vacancy created when Judge R. D. Reilly moves to Barrie to augment existing judicial resources in dealing with that area's case backlog.

This brings to thirteen the total number of new judges appointed as part of the overall plan to reduce backlog and delay in the courts.

Ms. McGowan will serve in the Judicial District of Niagara Falls North while Theo Wolder will assume the position left vacant in Brampton by the recent appointment of His Honour Judge Kenneth Langdon to the District Court of Ontario.

Mr. Crawford graduated from Osgoode Hall Law School and was called to the Bar in 1977. He was in private practice in Bradford until 1980 when he became a sole practitioner in Newmarket. He has also worked as a part-time Assistant Crown Attorney in the Judicial District of York Region and as a federal Prosecutor for Southern Simcoe County. Since 1986, Mr. Crawford has acted as the Area Director of the York Region Ontario Legal Aid Plan.

A member of the York Region Delay Reduction Committee for the Provincial Court (Criminal Division), Mr. Crawford was a founding Director of the Bradford and District Chamber of Commerce. He was elected as a Trustee with the Simcoe County Roman Catholic Separate School Board, a Municipal Councillor for the Corporation of the Town of Bradford and served his community as Hospital Director for the York County Hospital in Newmarket.





Mr. Stone graduated from the University of Windsor Law School and was called to the Ontario Bar with Honours in 1975. He was also called to the Bar in both the Northwest Territories and Yukon Territory in 1983 and 1984 respectively. Mr. Stone began his career in general practice in Parry Sound specializing in criminal defence, civil litigation and family law work. In 1980, he became a Crown Counsel of Criminal Prosecutions with the Federal Department of Justice in the Toronto Regional Office and helped develop the law relating to the Canadian Charter of Rights and Freedoms with respect to extradition, wiretap and environmental matters.

Mr. Stone has been a Chief Lecturer in a Commercial Law course for Laurentian University and held executive positions with both the Pickering and Parry Sound Rotary Clubs.

Ms. McGowan graduated from the University of Western Ontario Law School and was called to the Bar in 1977. She immediately began her career as an Assistant Crown Attorney in Middlesex County and for the next nine years prosecuted criminal cases at all levels of court. Ms. McGowan was also the designated specialist in domestic assault and child abuse cases.

Since 1986, Ms. McGowan has been the Crown Attorney for Elgin County and a volunteer member of the Board of Directors of the Association for Community Living, which integrates mentally-handicapped persons into the community.

Mr. Westman graduated from the University of Toronto Law School and was called to the Bar in 1975. He has specialized in both criminal and family law during his 15 years in private practice in Toronto and Kitchener.

Mr. Westman is also active in community work serving as the Chairman of the local chapter of the Association for Community Living.





Mr. Wolder graduated from the University of Western Ontario Law School and was called to the Bar in 1970. He has devoted his 19 year legal career to private practice in Fort Frances, developing a wide expertise in criminal, family and civil law, real estate and municipal law. Mr. Wolder has acted as a Deputy Judge of the Small Claims Court since 1986.

President of the Fort Frances and District Association for the Mentally Retarded, Mr. Wolder is also Past President of the Lions Club and remains an active member of that organization.

All appointments are effective June 1, 1990.

- 30 -

Reference:

Michelle Salt (416) 326-2210

John Yoannou (416) 326-2219







## APPENDIX B





CHARGES RECEIVED (total)

	BARRIE	BRAMPTON	NEWMARKET	OSHAWA	OTTAWA	SCARBOROUGH
1988	11298	24178	15140	19463	23771	15055
1989	11847	26730	18662	23267	25672	16733
1990	13230	28696	20824	23641	24467	20573
+/- (1988-1989)	549	2552	3522	3804	1901	1678
% change	4.86	10.56	23.26	19.54	8.00	11.15
+/- (1989-1990)	1383	1966	2162	374	-1205	3840
% change	11.67	7.36	11.59	1.61	-4.69	22.95

CHARGES DISPOSED (total)

	BARRIE	BRAMPTON	NEWMARKET	OSHAWA	OTTAWA	SCARBOROUGH
1988	11132	19187	11727	13947	22511	15148
1989	10535	22979	15412	18564	26192	18226
1990	11794	30554	19567	20217	25113	19866
+/- (1988-1989)	-597	3792	3685	4637	3681	3078
% change	-5.36	19.76	31.42	33.25	16.35	20.32
+/- (1989-1990)	1259	7575	4155	1633	-1079	1640
% change	11.95	32.96	26.96	8.79	-4.12	9.00

1. CHARGES RECEIVED, DISPOSED AND PENDING INCLUDE CCC, NCA/FDA, YOA AND OTHER FEDERAL CHARGES FOR NEWMARKET AND OSHAWA; CCC, NCA/FDA AND YOA CHARGES FOR BRAMPTON, BARRIE AND OTTAWA; CCC AND YOA CHARGES FOR SCARBOROUGH



## CHARGES PENDING

	BARRIE	BRAMPTON	NEWMARKET	OSHAWA	OTTAWA	SCARBOROUGH
1988 (december)	5091	18772	14626	12563	10149	11197
1989 (december)	6334	20943	12646	19615	9855	9413
1990 (december)	5773	19082	14254	13199	10713	9921
+/- (1988-1989)	1243	2171	-1980	7052	-294	-1784
% change	24.42	11.57	-13.54	56.13	-2.90	-15.93
+/- (1989-1990)	-561	-1861	1608	-6416	858	508
% change	-8.86	-8.89	12.72	-32.71	8.71	5.40

\*\*oshawa pending figure was recounted in january 1990, thus percentage changes will not reflect true performance.

## MONTHS UNTIL TRIAL DATE

	BARRIE	BRAMPTON	NEWMARKET	OSHAWA	OTTAWA	SCARBOROUGH
1988 (october)	14	15	15	15	14	13
1989 (december)	15	13	15	13	10	10
1990 (december)	8	12	13	11	11	6
+/- (1988-1989)	1	-2	0	-2	-4	-3
% change	7.14	-13.33	0.00	-13.33	-28.57	-23.08
+/- (1989-1990)	-7	-1	-2	-2	1	-4
% change	-46.67	-7.69	-13.33	-15.38	10.00	-40.00

} Time to trial from  
set date  
- Time to trial from  
sworn date

1. CHARGES RECEIVED, DISPOSED AND PENDING INCLUDE CCC, NCA/FDA, YOA AND OTHER FEDERAL CHARGES FOR NEWMARKET AND OSHAWA; CCC, NCA/FDA AND YOA CHARGES FOR BRAMPTON, BARRIE AND OTTAWA; CCC AND YOA CHARGES FOR SCARBOROUGH







## APPENDIX C





## NEWMARKET (YORK REGION)

### INITIATIVES (PRE ASKOV)

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- . Delay Reduction Committee formed in November 1988.
- . Committee composed of judges, Crown Attorneys, court administrators, police, defence counsel, legal aid, justices of the peace, and trial coordinator.
- . Justices of the Peace have been instructed to deal immediately with adjournment motions rather than adjourn these motions to the trial date (this ensures that witnesses can be called off if the case is not to be heard, and gets an immediate decision).
- . Trial matters are commenced first. (This was an initiative that was implemented prior to formal Committee formulation and has been continued and reinforced.)
- . A coordinating Crown ("pit boss") has been designated to move cases through the system on all trial dates. Use, when available, is made of this "pit boss" Crown to coordinate cases, resolve issues with defence counsel, and to consider, supervise, and discuss potential guilty pleas with counsel.
- . Legal Aid is attempting to have a Com. Soc. assessment officer available 5 days a week instead of 3. To date they have succeeded in getting 4 days. This will expedite legal aid applications and result in saving time at the front end of the process.
- . New policy commenced March 1, 1989 - all guilty pleas are dealt with at 2:15 p.m. in a court specially designated to receive such pleas. Discussions are underway to expand this to a full day once extra resources are in place.
- . Crown's office has adopted policy that it will be prepared to discuss a negotiated plea which gives the accused credit for an early guilty plea.
- . A plan was developed which takes into consideration the rapidly escalating hiring of police officers (48% increase in last 4 years) and projected increase in number of charges coming into the courts.
- . A "legal aid application procedure" for unrepresented accused persons was developed and is handed out at first appearance court.



- . A notice is provided to the accused at first appearance court which sets out the procedures in Newmarket for trials, methods of election, guilty pleas, and how to obtain disclosure. It also states that a trial date will not be set until an election has been made as to the mode of trial.
- . The Crown and the accused elect mode of trial prior to trial date being set. (Early elections were already in place prior to the Committee official formulation.)
- . Further emphasis on commencement of trial courts with trials at 9:30 a.m.
- . A duty counsel is in court every day and at least one of them is available until 4:30 p.m.
- . A note has been prepared for the profession advising them of the change in the Newmarket policy. This was not published. A further note will be placed in the Ontario Reports, Canadian Criminal Cases, Criminal Reports and the Criminal Lawyers Association newsletter should there be other changes (i.e. a full day guilty plea court).
- . Notification of procedural changes and disclosure system to the Bar through letter to the Criminal Lawyers' Association Newsletter.
- . Police are spreading the return of released accused persons over the week rather than the Monday in order to reduce congestion in the courts on Monday mornings
- . A trial coordinator has been hired and is in place.
- . First appearance court now opens at 9:00 rather than 9:30 to expedite bail hearings being heard in the morning.
- . Trial coordinator gives priority of trial time to continuing and custody cases.
- . The Newmarket Delay Reduction Committee's Interim Plan was submitted to the A.G.
- . Trial coordinator directs all counsel who anticipate a trial to take a day or more to the Crown for discussion prior to a trial date being set.



- . Trial coordinator contacts defence counsel to ascertain status of cases.
- . Crown and defence are to meet to discuss the possibility of having an out of court Crown available to discuss guilty pleas and issues in advance of the trial date.
- . Practice directions are being considered to deal with motions and bail court procedures.
- . Full disclosure is available to defence counsel 30 days after a trial date is set.
- . All new Phase II YOA matters are handled by the family division commencing January 8, 1990. The Phase II YOA bail hearings are still heard by the criminal division.
- . A master calendar of courts at all levels was created by the Regional Director of Courts Administration. This was to improve efficiency by identification of courtroom availability.
- . Increased emphasis on the screening of charges by the Crown's office.
- . An assistant Crown Attorney is conducting a review of existing cases in the system in an effort to expedite resolution, resolve issues and reduce the amount of court time and witnesses required through communication with the defence bar.
- . A courthouse user committee was established and a facilities report was compiled.
- . Renovations have been made on the P.O.A. courtrooms to convert them to criminal courts. Efforts are being made to convert other space to the use of the P.O.A. matters.
- . The police took over court security effective January 1, 1990.
- . Legal aid is examining the question of salaried duty counsel for Newmarket rather than the use of per diems.
- . Professor Ernest Friesen, California Western School of Law, an expert in the field of delay reduction and caseflow management, visited Newmarket and made recommendations to Committee members.



- . New disclosure process. York Regional Police will have full brief prepared within 30 days of arrest for all cases except murder and complex fraud. Crown brief will be prepared for trial prior to accused's first appearance. First appearance for released accused will be 30 days after arrest (or release on bail) to permit police preparation of brief.
- . Police will provide information sheet to accused advising of Legal Aid and court procedure in an effort to have the accused obtain counsel prior to first appearance.
- . Police information sheet prepared for distribution to accused persons.
- . Completed police file to be reviewed by ranking officer to ensure correct evidence present and proper charges laid.
- . Police case management officer provided to work closely with the Crown Attorney's office on case profiles so early disclosure can be provided to counsel.
- . Duty Crown will review each file prior to first appearance, do repairs, consult with police, and will be available on first appearance to discuss case with defence counsel. Also available by appointment for other files not in court that day.
- . Judges will ask defence counsel if they have discussed the case with the Crown before a date is set for trial.
- . Notice of new procedure sent to defence Bar.





## BARRIE (SIMCOE COUNTY)

### INITIATIVES

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- . A Delay Reduction Committee was formed in November 1988.
- . The Committee consists of judges, Crown Attorneys, defence counsel, federal prosecutor, court administrator, Legal Aid, police, justice of the peace, and trial coordinator
- . Because of the shortage of available court dates, cases are set by the Crown by priority (custody, sexual assault against children, etc.) to ensure that they get an earlier court date.
- . A special assignment court was created prior to the Committee's formulation to assign early trial dates to priority cases and previously adjourned trial matters. This was made possible by days donated by judges from outside Simcoe County. This is no longer in place.
- . Mandatory pretrials have been instituted for all matters requiring one day or more of trial time.
- . An expedited first appearance process for accused persons is in the process of implementation, as the result of the cooperation of the 19 police forces/detachments in the area.
- . Keying of data into the trial coordinator's computer is complete and regular docket management procedures are now in place.
- . In an effort to encourage timely guilty pleas early in the process and to reduce the number of such pleas occurring on fixed trial dates, no case resolution discussions (absent special circumstances) will be entered into by Crown counsel on the day of trial.
- . The local area director of legal aid has reduced delays in processing and approval of legal aid applications and has set what he feels is an attainable goal of twelve days for the entire process.
- . The Committee's police representative has undertaken to impress upon all forces and detachments the necessity to have Crown briefs routinely prepared and available for disclosure purposes at an early stage in the proceedings.



- . An information letter to acquaint accused persons with various court procedures and assistance available to them was and is routinely distributed to assist in more timely decision making.
- . The review of all existing trial lists has been commenced by an inventory review Crown with a view to resolving those cases lending themselves to early resolution and screening out those incapable of proof.
- . Administrative responsibility for Midland has been transferred from Orillia to Barrie in order to improve administrative efficiency.
- . The assumption of responsibility for senior Young Offenders Act matters by judges of the Family Division has freed approximately six additional judge days per month for criminal matters.
- . The first appearance court for Alliston matters is now starting one hour earlier at 9:00 a.m. and being presided over by a justice of the peace for that hour in order to maximize the hours available to judges for trial matters.
- . The City of Barrie Police Department has in the Barrie courthouse a full-time court liaison officer who will complement the functions of the the duty Crown position and the trial coordinator by having available more timely disclosure and by actively seeking out admissions which would reduce the number of witnesses and time required for trials.
- . Following up on suggestions of some members that, with new resources now available, a strict fast track system be developed for all new cases, former Chief Judge Hayes was going to review the existing case inventory to determine the feasibility of this approach. This is not taking place due to Askov as all cases are to be fast tracked.
- . The preparation of a master schedule for all Simcoe courts has identified all courtrooms available for improved scheduling techniques in 1990 when the additional judges commence sitting.
- . A master facilities plan addressing immediate and long term user needs within the Barrie Courthouse is near completion by the Regional Director of Courts Administration.



- . A Provincial Offences Act courtroom, which would otherwise occupy a criminal courtroom, has been moved to an available motions room in order to free up the courtroom for criminal matters.
- . Professor Ernest Friesen, California Western School of Law, delay reduction and caseload management expert, visited Barrie and attended a Committee meeting. He offered suggestions to Committee members on how they may further improve their procedures.
- . New Duty Crown system established. Duty Crown to work with police court liaison officer to coordinate pretrial caseload management, to discuss resolution of cases with defence counsel, and to generally be available out of court so that defence counsel can speak to a Crown. Will not discuss matters set for trial on the trial date. Counsel must speak with Crown who has carriage of trial list.

NOTE: Askov et al. v. The Queen

The judges have set up special days for the hearing of delay motions. Cases are being vetted and brought forward for motion. The hours which are cleared can then be assigned to cases set well into next year. Notices are going out to counsel on cases set into next year to have them set earlier trial dates.



## SCARBOROUGH

### INITIATIVES

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- . Delay Reduction Committee formed in November 1988.
- . Committee composed of judges, Crown Attorneys, police, legal aid, court administrator, defence counsel, and trial coordinator.
- . A trial coordinator was initiated on a trial basis to gauge response. Positive response has led to the continuation of this position.
- . Trial coordinator now sends letter to all defence counsel who are to appear on cases in next 3 months. If no response is received, a further letter is sent indicating that the senior judge has asked for a list of all those lawyers who have not responded to the first letter. Trial coordinator is active in scheduling of cases and noting those for guilty plea or Crown attention for negotiation.
- . Crowns are asked to make their election as to mode of trial before a trial date is set in order to encourage earlier pleas of guilty from defence.
- . Provincial Offences Act appeals have been removed from the Scarborough courts and are now being dealt with at Old City Hall.
- . Two additional weeks per month of extra judge time were added pending the arrival of new resources. New resources arrived.
- . Priority assignment of young offender cases by addition of two extra court days per month to the youth court.
- . The legal aid office hours were extended an additional two hours every day to accommodate people who are making applications, so that their matter is not delayed for a further period of time before a trial date is set.
- . Legal aid provided a duty counsel for 2 hours every Tuesday afternoon who is available to speak to individuals charged with minor domestic assaults, so that they may more properly be aware of the charges facing them and the likely sentence being requested by the Crown. It is anticipated that more of these cases will be resolved early if people are aware that the Crown is not seeking a custodial term.





- . Unrepresented accused were advised of the clinic and are encouraged to attend. A synopsis of their charge was provided to them.
- . Mandatory pretrials required on all matters prior to a date being set. This has proved so successful that the domestic assault clinic has been cancelled as many cases are resolved in the first appearance court..
- . Early trial dates for domestic assault trials are available through the Court liaison office.
- . For all cases requiring more than one day of court time a date will not be set until defence and Crown have met to narrow the issues.
- . The formal disclosure procedure in place prior to formal Committee formation has continued. There is a court liaison Sergeant assigned to the Crown Attorney's office. This Sergeant provides disclosure and also reduces to writing any offers to settle by defence which are presented to the Crown for consideration within 24 hours. The court liaison officer cancels witnesses and can bring matters forward for guilty plea should an agreement be reached.
- . A full Crown brief is completed and available within 35 days of a trial date being set.
- . A pretrial system of disclosure from a senior Crown was available one day a week prior to formal Committee formulation. Now available every day of the week.
- . A written outline of the disclosure system has been made available to defence counsel. Defence often use both stages of disclosure by obtaining it from the court liaison, discussing it with clients, and then meeting with a Crown Attorney.
- . Pretrial meetings between Crown and defence are held at specific times on all serious matters to narrow the issues. (Prior to the mandatory pretrial policy). Where, at the option of either party, a judge is required to participate in the process, one is provided. The accused is available at that time in the event that a plea agreement is reached. Further, counsel appear in court to indicate on the record what agreements have been reached.



- . A notice is distributed to counsel and accused persons, including young offenders, that will indicate what is expected of them at their next appearance (e.g. legal aid, elections, procedure for unrepresented accused to obtain attendance of witnesses, contact with the trial coordinator for trial dates and notification of any changes in procedural options or plea.).
- . Senior Crowns vet new cases (post charge screening commenced prior to Committee formulation).
- . The Crown notes on the accused's synopsis whether a pretrial would be beneficial and asks that the accused's lawyer be notified.
- . The accused's remand and the pretrial are set for the same day.
- . The remand court judge will see counsel in chambers upon request.
- . There has been a favourable response from the defence bar to the trial coordinator's letters.
- . There has been general acceptance from the defence bar of the Committee's plan.
- . A shoplifting clinic along the same lines as the domestic assault clinic was abandoned due to a low demand for its services.
- . A notice to the profession regarding the new procedures in Scarborough was published in the C.C.C.'s, O.R.'s, and the W.C.B.'s.
- . The Court is changing its docket loading system from a case loading basis to an hourly loading basis. One court is now on this system. The remaining courts will adopt this loading system once the additional resources are in place.
- . A duty Crown is available for discussions with defence counsel prior to a trial date.
- . John McMahon, an Assistant Crown Attorney, conducted an inventory review and examined, with a view to resolution, all cases that were set for trial in January through the first week of March 1990. He also spoke with counsel who approached him on matters that had not yet been set for trial. There was a good response from defence counsel and unrepresented accused to John McMahon's inventory review. One thousand one hundred and eighty three cases were reviewed. One hundred ninety three cases were resolved at a



savings of 285 civilian and 328 police witnesses. One hundred and eighty nine potential trials and 25 complete court days in the "specials" court were saved. The cost benefit to Metropolitan Toronto police was \$49,300. This "blitz" procedure to be re-introduced in light of Askov.

- . Legal Aid established an afternoon clinic twice a week during the time frame of John McMahon's project. This was held Tuesdays and Fridays, for those unrepresented accused responding to John McMahon's letter. The response was a positive one and many matters were resolved by guilty plea.
- . A subcommittee was created and reported on the time periods required to hear certain offences. ICON statistics now used to set accurate time estimates for trial.
- . The Crown Attorney, Mary Hall, and the judges met to discuss proposals of how the additional resources can be best used.
- . Judge Davidson now requires counsel to meet with the Crown prior to setting a trial date. A duty Crown is available to perform this function. Viewed by Committee as a success.
- . Committee reports that there are more matters being dealt with in the first appearance court.
- . Committee reports that there are not as many committals to trial due to the type of charges the police are laying and the elections to the Provincial Court.
- . Rita Koehl (Assistant Crown Attorney) prepared and submitted a report on how the first appearance court could be improved. Subcommittee formed to study revamping of first appearance court.
- . Police will now prepare a full brief for first appearance that will contain a detailed synopsis, witness statements, a description of the evidence available to prove the case, and information on victim impact and injuries.



## BRAMPTON (PEEL REGION)

### INITIATIVES

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- . A Delay Reduction Committee was formed in November 1988.
- . The Committee consists of judges, police, Crown Attorneys, defence counsel, federal prosecutor, court administrator, trial coordinator, justice of the peace, and legal aid.
- . A trial coordinator was appointed to communicate with counsel in advance of a trial date to determine which cases will proceed, to refine time estimates, to reschedule other matters for time freed up, and to distribute trials on a daily basis to maximize utilization of the courts.
- . The bail hearing procedure was improved by having the Crown read in allegations, on consent, rather than calling a police officer to testify; the Crown now submits a form with suggested conditions in consent release cases; persons surrendering within a week of a missed court date not held for reverse onus bail hearings.
- . A new system of assigning duty counsel to Courtrooms 1, 2 and 3 has been established under the supervision of a senior duty counsel; a form is given to the accused so that duty counsel can be called to court by name.
- . In the Crown's sentencing submissions, reference is made to an early guilty plea as a mitigating factor.
- . Judges are taking early guilty pleas into account in imposing sentence, so that an accused will perceive the benefit deriving from that plea.
- . There is special scheduling of shoplifting cases in cases involving no prior record and value of stolen goods under \$100. A trial date is set for within 3 months; if it is not reached at that time, it is rescheduled for within 3 months, and withdrawn by Crown if not reached on that occasion.
- . Briefs in routine cases are being prepared by the police within 30 days of arrest, allowing earlier disclosure to defence





- . Mandatory disclosure is required in long cases, with the Court requiring disclosure to have been given prior to the setting of a trial date in cases to take more than one day.
- . Disclosure meetings are available with a Crown Attorney three days a week. Discussion underway about expansion to four days a week.
- . Experienced Crowns now in assignment, bail and plea courts, are able to provide screening of cases and to negotiate with defence counsel.
- . Notices have been posted and distributed to accused persons advising them of Brampton's assignment court procedure, duty counsel and legal aid, plea and election options, etc.
- . Young Offender court in Mississauga has been moved to Brampton so that a judge is available to assist with other criminal trial courts in Brampton.
- . Attempts have been made to improve time estimates by having more experienced Crowns in assignment court to examine files and make informed estimates; defence counsel are to advise the Crown if an expert or unusual evidence is intended to be called; in complex cases, the court may require the attendance of counsel rather than proceeding on the basis of a lawyer's letter.
- . Staggered appearances have begun in a two-tiered assignment court with first appearances at 9 a.m., subsequent remands at 10:30 a.m., to lessen congestion.
- . Cases not reached or completed are "red-stickered" and given priority on subsequent trial lists.
- . The Crown will proceed on the basis of certificates of analysis in impaired driving trials rather than calling evidence of the breathalyzer operator once police retraining is complete.
- . Senior police officers at the division level will provide more intensive screening of charges and occurrence reports.



- . Expansion of the Peel Regional Police court bureau has taken place to provide a case management office. Officers are assigned to arrange disclosure meetings, supervise submission of briefs, liaise with court administration re case scheduling, initiate contact with defence counsel concerning waiver of evidence, particularly of police witnesses.
- . Defence counsel can notify the police case management office of their client's intention to plead guilty. A form is filled out which is sent to the Crown for acknowledgment and then to the trial coordinator to ensure everyone is notified, and the case and file are brought forward.
- . Mandatory pretrial hearings at least three months prior to the trial date with accused being present are required for cases set to take one day or more.
- . Legal aid applications have been expedited by opening an office at the Clarence St. courthouse to take applications and conduct interviews, including cases involving accused in custody.
- . A practice direction has been issued to lawyers re Charter delay motions requiring that s.11(b) delay applications be filed in writing 30 days in advance of the trial date, with complete transcripts of previous appearances and written argument.
- . A new private complaints procedure has been set up which requires attendance of the informant three months in advance of the trial date to confirm the intention to proceed; the charge is to be dismissed upon failure of the complainant to appear at that time.
- . An additional Crown has been assigned to Provincial Court to discuss pleas, prepare cases to avoid downtime in court, and give disclosure.
- . Space was provided for three provincial offences courts outside the Clarence Street building to free up additional courtrooms for criminal trials.
- . A new specialized preliminary inquiry court is scheduled to commence September 1990. Fifteen cases per day are being listed for that court.
- . A new specialized court for offences such as cause disturbance, mischief, and breaching bail conditions is



scheduled for September 1990; because of higher guilty plea rate for such offences, more trials than average will be set for that court.

- . Consideration is being given to starting all trial courts at 9:30 a.m., and bail court at 9 a.m., provided that prisoners can be brought from the detention centre by then.
- . Production of monthly newsletter, edited by Justice of the Peace Carolyn Robson, to inform the local bar of delay reduction activities initiated by the Committee.
- . Assignment of an experienced Crown to review on a full-time basis until March 31, 1990, the backlogged cases and identify those where earlier dates should be offered, those no longer worth pursuing, or those where discussion with defence might be fruitful.
- . A special assignment court was started in February 1990 to list old cases, identified by the trial coordinator and the Crown, for which defence counsel would like an earlier date than previously set in additional courts opened as a result of new judges.
- . Professor Ernest Friesen, California Western School of Law, a delay reduction and caseload management expert visited Brampton and attended a committee meeting. Recommendations were made to the Committee.
- . Young Offender duty counsel will now assist adult court if necessary.
- . Local Bar to improve and reduce costs of duty counsel in effort to avoid full time permanent duty counsel.
- . Duty Crown assists trial and first appearance courts by discussing matters with counsel that appear in court that day. Will also discuss other cases not set for trial or court appearance that day. Viewed by Committee as great success.
- . A Subcommittee was formed to design a model for fast-tracking cases to be handled by three new judges arriving in May 1990. Special expedited track of 30 - 90 days for simple, non expert/civilian impaired driving cases has commenced. Viewed by majority of Committee as a success. This is no longer being done as new judges' lists fully booked in the fall.
- . Police hand out notice regarding Legal Aid and court procedures to those charged with impaired driving offences to speed up the process. Legal Aid expedites these applications.



- . A subcommittee has been formed to examine various options from provincial offences to Criminal Code cases at night, tiered courts, and costs.
- . A subcommittee has been set up to examine how to improve first appearance court.
- . Fast track subcommittee has met with Shin Imai to consider alternative dispute resolution and Susan Lee to consider special program for domestic violence.
- . New subcommittee, not related to delay reduction, will prepare for submission to the Ministry an innovative treatment oriented proposal for dealing with domestic violence offenders. This is not an alternative to criminal prosecution.





## OSHAWA (DURHAM REGION)

### INITIATIVES

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- . A Delay Reduction Committee was formed in November 1988.
- . The Committee consists of judges, Crown Attorneys, defence counsel, court administrator, police, Legal Aid, federal prosecutor, justice of the peace, and trial coordinator.
- . 5 impaired cases per week were transferred to Bowmanville, resulting in 250 cases a year being taken out of the Oshawa courts. This has been discontinued as Bowmanville has developed its own backlog.
- . The Durham Law Association has formed a criminal law subcommittee to improve communication between the local defence bar and the office of the Crown attorney.
- . Priority case scheduling has been established for continuing or adjourned cases.
- . Keying of data into the trial coordinator's computer is complete and a variety of docket management procedures are now in place.
- . All incoming charges are regularly screened by a senior Crown.
- . Improved and more timely disclosure is now regularly available to defence counsel.
- . A second Crown is routinely available outside assignment court for case resolution discussions on the days on which this court sits.
- . An effort is being made by Durham regional police to expedite an accused's first appearance in the courts.
- . An assistant Crown Attorney is available outside assignment court for consultation and disclosure with defence counsel. This prevents the interruption of that court and Crown.
- . Earlier processing of legal aid applications is occurring as a result of co-operation received from the local area director of legal aid.



- . There is an intention to provide an information letter to all accused persons in order to acquaint them with court procedures and assistance available so that more timely decisions might be made by those individuals.
- . Consideration is being given by Durham regional police to a proposal that two officers be made available as case management officers to assist with disclosure and actively seek out defence counsel regarding guilty pleas and admissions to reduce the number of witnesses and court hours required for any given case.
- . Recommendation was made for centralization of the Ajax court.
- . The new Oshawa bail court is now being occupied and the Oshawa courtroom previously used for bail matters is regularly used for the now centralized Ajax court.
- . The Committee's request for centralization (to the extent now possible) of all criminal courts in or near Oshawa in order to improve efficiency has resulted in the creation by the Regional Director of Courts Administration of a master calendar of courts at all levels and the identification of an additional courtroom in Whitby for the immediate and exclusive use of the Provincial Court.
- . The Crown Attorney, in an effort to defeat successful Charter applications on the basis of existing trial delay, contacted all defence counsel and made available to their clients the earlier trial dates that the new judges will be able to provide. (Pre Askov)
- . In order to combat a growing Provincial Offences backlog, extra POA courts were scheduled in unused District courtrooms during summer months. The POA courts are no longer in the General Division. They now operate in the Canadian Legion building.
- . Space in another facility has been identified, which would permit all POA matters to be transferred there so that criminal matters could be centralized in the Oshawa courts.
- . One extra judge day of trial work has resulted from the discontinuation of a regularly scheduled but unproductive guilty plea court.



- . Better use is being made of stand-down or abbreviated presentence reports in an effort to reduce sentencing delay.
- . The Committee has attempted to identify, well in advance of the arrival of new resources, additional probation officer and duty counsel requirements needed to maximize the efficiency of all courts; defence counsel have agreed to meet duty counsel staffing shortages by acting in that capacity whenever required in trial courts.
- . An attempt was made to expedite impaired driving cases by setting trial dates within six months.
- . Probation has improved the time period presentence reports are prepared within. The time has been reduced from 3 weeks to 3 days.
- . A disclosure and admissions sheet regarding admissions that the accused could make was submitted. This was submitted to and discussed by the Committee. Defense counsel are opposed to it at the moment.
- . Consideration will be given to the use of a form during pretrials to indicate issue resolution and other matters relating to the conduct of the trial.
- . Committee has submitted two progress reports.
- . Committee has changed its name to the Durham Provincial Court Management Advisory Committee. Once Phase I of Court Reform takes place the Family Division will be invited to join the Committee.
- . Notice to accused regarding procedures and Legal Aid was approved. (This was a notice that had originally been prepared for Newmarket. Judge Crawford was the Area Director of Legal Aid who sat on the Newmarket Committee).
- . Three salaried Duty Counsel will commence July 1st, 1990 with per diem being used where required.
- . Two new judges were appointed however, only resulted in overall increase of three days a week as:
  1. No longer receiving assistance from Peterborough and Bowmanville.
  2. Judge Evans appointed Regional Senior Judge. Previously sat two days a week. No longer available.

ASKOV: Have double booked courts from December to March.



## OTTAWA

### INITIATIVES

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- . Delay Reduction Committee formed in August 1988.
- . Committee composed of judiciary, Crown Attorneys, defence counsel, federal prosecutor, police, court administrator, legal aid, justice of the peace, and trial coordinator.
- . Trial coordinator confirms with Crown and defence the status of cases three months prior to trial or preliminary hearing date to determine which will be proceeding, reschedules cases for time freed up, supervises the daily distribution of cases to maximize dispositions.
- . Priority case scheduling for adjourned/continuing cases.
- . Increased loading of all courts, with trial coordinator authorized to schedule up to 16 hours of trials per day, and one court up to 20 hours. As well, between March and May 1990, and in September and October, almost 800 hours of court time to be added to previously scheduled trial courts.
- . Priority scheduling of impaired driving cases was implemented. Has been modified. While policy of scheduling routine impaired driving cases within 6 months of charge has not been completely abandoned, such trial dates are now generally set as any other.
- . Two additional courts per week are scheduled for impaired driving cases only.
- . Young offender and custody cases are scheduled for within three months of charge.
- . Policy of full disclosure adopted, with police making copies of contents of brief, providing them to defence counsel through court liaison office, and arranging access to designated disclosure Crowns.
- . Crown screening charges in advance of first appearance.
- . Crowns available for early discussions re plea/sentence either at assignment court or disclosure sessions.
- . The Crown's secretary is positioned in first appearance court to make appointments for meetings between defence and Crowns.





- . The Crown's articling student appears in the set-date court under the supervision of a provincial prosecutor, with a Crown Attorney available outside the courtroom to discuss and resolve cases on the assignment list.
  - . Court is requiring status reports 6 weeks before lengthy (i.e. more than 1 day) trials at pretrial hearings involving the Senior Judge and the Crown Attorney personally. Accused and investigating officer are present so matter may be disposed of immediately if resolved.
  - . Crown's office, and not merely the police, vetting Crown adjournment requests, and court adopting a more stringent policy, refusing adjournments because of officers' vacations unless officers out of town and unavailable.
  - . Where courts were available, a weekly "victim/accused pretrial court" was held with cases involving minor offences with restitution as primary objective or where accused and victim involved in ongoing relationship listed for expeditious resolution; up to 55 cases for each court being listed. (Discontinued as restructured)
- 

- . Proposal made for restructuring of "victim\accused pretrial court" eliminating a specific court and allowing a more processed version to be conducted in remand court. Result is that Crown\defence discussions would not take place on the specific court day. Proposal will be tried.
  - . Proposal for criminal diversion pilot project has been submitted to Criminal Law Division by Crown Attorney and is being considered as part of Ministry's alternative dispute resolution policy initiative.
- 

- . Above restructured to special pre-trial Crown and diversion program for certain offences.
- . In impaired driving cases, Crown will proceed by way of certificate of analysis rather than viva voce evidence of qualified technician.



- . Senior Judge Belanger and Senior Judge Hamlyn have arranged that all Phase II young offender cases will be transferred to the Family Division from the Criminal Division; all new charges will be returnable before Family judge after November 1, 1989, and all youth court trials after December 1, 1989, will proceed in Family Division.
- . Improvements in set-date court procedure by adoption of "take a number" system for counsel and assignment of two clerks to that court.
- . 100 additional criminal trial courts scheduled in Ottawa between August 1989 and the end of the year as a result of two "anticipatory" judicial appointments.
- . Senior Crown Attorney in January 1990 commenced "inventory review analysis", examining backlog (focusing initially on lengthy cases) to determine status of cases, contact defence counsel to discuss them, and arrange to call them forward in court, if appropriate.
- . Additional Crown to be assigned to Monday and Thursday afternoon pretrial court, so that he/she will be available those mornings to prepare and discuss cases to be pre-tried (to supplement pretrial Crown appearing those mornings in the guilty plea court).
- . Defence bar, as a whole, has undertaken to cooperate with police court liaison office by completing forms indicating what facts will be admitted and which witnesses need not be called, after disclosure has been provided.
- . Chief Judge to be asked to consider assigning outside judges to preside at particularly long trials or preliminary inquiries or to replace sick judges outside Ottawa.
- . New committee of trial coordinators from Supreme, District and both divisions of Provincial Court to allocate court space in building for all court levels.
- . Defence bar considering Crown Attorney's proposal for the out-of-court examination of witnesses who would otherwise be required to testify at preliminary inquiries.
- . Integration Committee formed by court administrators of all courts and divisions to pool reporters, court clerks, and other support staff.



- . Failure to appear charges to be assigned same trial dates as substantive charges to which they relate, even if trial lists for those dates already full.
- . In addition to Monday and Thursday afternoon pretrial courts, an additional pretrial court to be scheduled for Tuesday afternoons starting April 1990.
- . Police to distribute to accused at time of release information concerning the Legal Aid Plan, so that applications may be made prior to first court appearance.
- . P.O.A. subcommittee formed.
- . "Case manager Crowns" assigned (for at least a months duration) to review cases going to pretrial, attend pretrials and follow up issues, identify major cases that need to be assigned, monitor cases set for a day or more of court time to ensure Crown assigned and time accurate, and discuss resolution with defence.
- . Preliminary inquiry experiment conducted with evidence given before a Justice of the Peace outside the courtroom to save court time.









## APPENDIX D



**IN THE PROVINCIAL COURT (CRIMINAL DIVISION)  
JUDICIAL DISTRICT OF PEEL  
PRACTICE DIRECTION**

In the Judicial District of Peel the backlog of cases is a serious impediment to the administration of justice. The Delay Reduction Committee has put in place several procedures to reduce and eliminate delay. The intention of this Practice Direction is to also reduce/eliminate delay at the time of trial. Judges are inundated with Applications under Section 24(1) of the Charter alleging a breach of Section 11(b) on trial days thereby reducing the trial time which has been allotted for each trial resulting in delay.

1. Commencing October 2, 1989, and thereafter Applications under Section 24(1) of the Charter alleging a breach of Section 11(b) shall be in writing.

2. The Notice of Application shall be accompanied by written submissions supporting the Application.

The Notice of Application together with

- (a) written submissions;
- (b) proof of service on the prosecutor by personal service or by ordinary mail; and
- (c) all transcripts of previous appearance shall be filed with the Clerk of the Court not less than thirty (30) clear days prior to the trial date.

4. The Notice of Application shall contain the following:

- (a) name of the accused/defendant;
- (b) date of the alleged offence;
- (c) nature of the offence;
- (d) date of the application and date of trial;
- (e) particulars of transcripts;
- (f) a brief summary of the grounds of the Application.

5. Upon being served with the Notice of Application and written submissions the prosecutor shall reply in writing and shall within fifteen (15) clear days after service of the Notice of Application and written submissions file a written reply to the Notice of Application with the Clerk of the Court together with proof of service on the accused and/or Counsel by personal service or by ordinary post.

6. Any time limited by this Direction may be abridged by a Judge of the Court, before or after the expiration of the time prescribed.

W. D. August  
Senior Judge  
Provincial Court (Criminal Division)

June 27, 1989





Provincial Court  
(Criminal Division)

Judicial District  
of York

(416) 757-8771

1911 Eglinton Ave. E.  
Scarborough, Ontario  
M1P 4P4

### SCARBOROUGH DISCLOSURE/PRE-TRIAL PROCEDURE

The Senior Judge in Scarborough, in co-operation with the Delay Reduction Co-ordinating Committee, which is composed of representatives from the Legal Aid Plan, the Criminal Lawyer's Association, the Crown Attorney's Office, and the Bench, has embarked on a number of programs to reduce trial delay.

In an attempt to reduce trial delay in the Provincial Court in Scarborough, a new disclosure/pre-trial system has been established. It is hoped that earlier disclosure and more meaningful pre-trial discussion between defence and Crown counsel will reduce the number of cases set for trial or shorten actual trial time by narrowing legal issues.

#### The following procedure will be implemented:

1. The Crown will be asked to make its election in 407 court in relation to Crown elect offences. The Crown election will be noted on the copy of the synopsis handed to an accused on his/her first appearance.
2. No date will be set for a 'special' in 405 court, unless and until a pre-trial has been held with the Crown.
3. In the more serious and/or complex cases (i.e. Sexual Assaults, strictly indictable offences), the court will direct that a pre-trial be held before a trial date is set. The case will be adjourned in 407 Court from time to time to allow a pre-trial to be held.
4. On a remand date, once counsel is retained, the case will be held down until counsel arranges a pre-trial (in person or by letter). Once a pre-trial date and time are fixed, the case will be re-called and the accused will be remanded to the same date in 407 Court, either for 10 a.m. or 2 p.m. The date and time of the pre-trial will be noted on the information.



5. On the return date, if the pre-trial results in a proposed settlement, the case can be disposed of on the same date. A judge will see counsel in chambers upon request, prior to the plea being entered. If the pre-trial does not result in a settlement, either the Crown or defence counsel may request the assistance of a Judge in an effort to settle the matter.
6. Disclosure is available through Sgt. Braisby, Monday through Friday from 9 a.m. to 1 p.m. An appointment may be made in person or by telephone by calling 757-2886.
7. Pre-trials (as distinct from disclosure) will be scheduled for Tuesdays, wherever possible. If a full brief is not available, the officer in charge of the case will be asked to attend.
8. A clinic is being held by duty counsel on Tuesdays between 1:30 - 4:00 p.m. to provide advice to unrepresented accused. Duty counsel will be able to consult the pre-trial Crown if a possible disposition is suggested. Persons charged with family assault will be remanded to the following Tuesday at 2 p.m. to allow them to attend the clinic.





IN THE PROVINCIAL COURT  
(CRIMINAL DIVISION)  
SCARBOROUGH

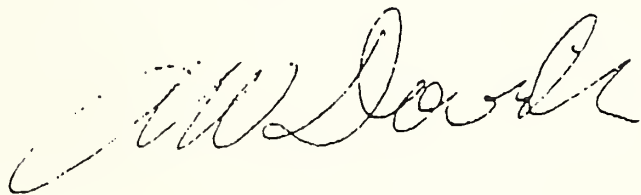
PRACTICE DIRECTION

As a result of much hard work and planning, the Delay Reduction Committee of the Scarborough Provincial Court (Criminal Division) has made substantial progress in reducing the time it takes to bring cases on for trial. One of the strategies recently chosen by the Committee to continue this progress concerns the procedure used to set dates for trial.

Effective immediately, before a date for trial will be set in adult or youth court, a pre-trial conference with the Crown is mandatory. The Scarborough Crown's office is providing a duty crown who will always be available for this purpose.

The pre-trial conference can be conducted when appearing to set a date for trial or earlier upon making an appointment with the Crown's office.

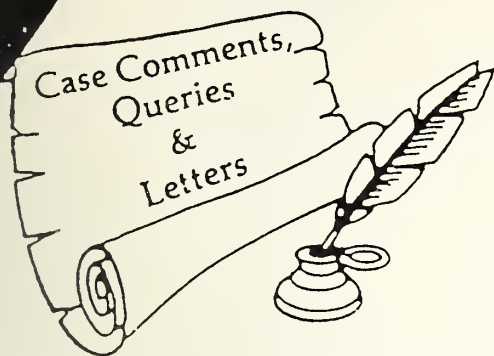
This procedure has been used on an experimental basis during the past month and has produced excellent results. It is hoped that all will continue to co-operate to provide timely trials in Scarborough.

A handwritten signature in cursive script, appearing to read 'A.W. Davidson', is written in dark ink.

A.W. Davidson  
Senior Judge  
Provincial Court  
(Criminal Division)

April 18, 1990





The views expressed in Case Comments, Queries & Letters are not necessarily those of the Criminal Lawyers' Association.

### 1. Disclosure Costs

To: Counsel Engaged in Criminal Cases in the Newmarket Courts  
From: Larry H. Owen, Crown Attorney  
Re: Disclosure Cases Involving York Regional Police Force  
Date: October 20, 1988

In this jurisdiction disclosure in criminal cases has been provided to counsel by mailing photocopies of the relevant material. This has been possible because of the assistance of the York Regional Police, otherwise it would have been necessary for counsel to attend upon Crown counsel to receive oral disclosure. The latter practice has been and is the practice in a number of other jurisdictions. Recently some of these jurisdictions have adopted a system of mailed disclosure but have been able to do so only by enlisting the assistance of the local police force. The local police forces are charging a fee to cover the cost of providing that level of service.

The York Regional Police Force feels that it is appropriate and fair that they no longer provide the resources required for free and therefore they will impose a charge to cover their costs. In addition, they feel that in this way they can provide further resources to this task and expect a better level of service than was possible in the past. The fee will be a flat rate of \$20.00. This figure is a result of an analysis of projected costs only (i.e. there is no profit built in). This fee is the same as that charged by the York Regional Police Force for copies of accident reports, theft reports, etc. I note in passing that in Halton Region the cost is \$25.00.

Accordingly, disclosure requests made on or after November 1, 1988 must be accompanied by counsel's cheque for \$20.00, payable to York Regional Police Force, if counsel expects to receive disclosure by way of photocopies sent through the mail. If no cheque accompanies the request then disclosure will be provided in accordance with the Attorney-General's guidelines by Crown counsel meeting with defence counsel. Disclosure will be oral with an opportunity for counsel to take notes.

No change is anticipated in present practices regarding photographs, films and similar items which have been the subject of a police charge for copying.

There is no change in procedure for cases which are not prepared by the York Regional Police.

### 2. Procedural Changes Newmarket Provincial Courts

Dear Earl:

Re: Procedural Changes  
Newmarket Provincial Courts (Criminal Division)

Following our conversation of February 14, 1989, I am writing to you in order that the members of the Criminal Lawyers Association can be advised of procedural changes which have been adopted following a meeting of the Court Management Committee on Monday, February 13, 1989. As you are aware, there is currently a substantial backlog in the Provincial Courts, (Criminal Division). In an effort to attempt to resolve this problem the Court Management Committee has proposed that effective March 6, 1989, the following procedures will apply in trial courts.

- 1) Matters set for trial will proceed as soon as the court opens at 9:30 a.m.
- 2) All matters which are to be dealt with by way of plea of guilty will be assembled from the trial courts and placed into a designated court for plea at 2:00 p.m.
- 3) Counsel who notify the Crown Attorney in advance of the trial date that their matter will be a plea of guilty, will not be required and their case will not be called until 2:00 p.m. Hopefully, this will allow Counsel who have other matters to attend to in other jurisdictions to do that first, and then come to Newmarket.
- 4) A Crown with no assigned court duties will be available each day to discuss a possible resolution of any matter in any of the trial courts. If, as a result, a plea is worked out then Counsel would re-attend at 2:00 p.m. for the purpose of entering the plea.

We are attempting to do everything reasonably possible to reduce the backlog in York Region and look forward to the co-operation of the members of the Criminal Lawyers Association in this endeavour.

D. Garth Burrow  
Assistant Crown Attorney

### 3. Letter from T. David McComb

Michael Lomer,  
Editor, Criminal Lawyers' Newsletter,

Re: C.B.A. Programme—Criminal Law—  
Convention Centre—March 4/89

Dear Sir:

Nine balanced panels entertained/educated on topics of mutual interest to the judges, defence counsel, crowns, interested academics and even a politician who attended. For those fellow travellers who missed it, the content was a "downer". No additional arrows for the quiver this time out—only a timely plaintive cry from Alan Gold ("they got it wrong—distinguish those contraband cases") What you missed "discovering" was as follows:





TASK FORCE

JUL 16 1990

Ministry of the  
Attorney  
General

Provincial Court  
(Criminal Division)

RECEIVED  
Judicial District  
of York

2nd Floor  
50 Eagle Street W  
(at 11 Hwy)  
Newmarket, Ontario  
L3Y 6B1

Ministère  
du Procureur  
général

Cour provinciale  
(Division criminelle)

District judiciaire  
de York

2e étage  
50, rue Eagle Ouest  
(à côté de l'autoroute 11)  
Newmarket (Ontario)  
L3Y 6B1

Delay Reduction Committee

## NOTICE

The Delay Reduction Committee in York Region has prepared an initiative intended to assist the Provincial Court (Criminal Division) in reducing the backlog. The plan attempts to reduce the number of appearance dates necessary prior to setting a trial date, improve the speed with which disclosure can be provided, and allow more accurate estimation of trial time.

All Judges of the Provincial Court (Criminal Division) assigned to the Newmarket Court support the initiative fully.

### FIRST APPEARANCES

Beginning July 1, 1990, all adults charged by York Regional Police and released on an Appearance Notice (Form 9), Promise to Appear (Form 10) or Recognizance before an Officer (Form 11) will be required to appear at Newmarket Courthouse, Courtroom 200, on a specified date approximately four weeks hence. Currently these individuals return about two weeks after the date on which they are released or issued with an Appearance Notice.

In addition, each accused will be provided with a copy of a Notice to Accused Persons which provides certain information intended to assist these individuals to prepare for First Appearance (copy attached).

While it is recognized that some accused will be unwilling or unable to do so, it is hoped that



many will be able to set a trial date on the First appearance, or indicate a plea, and that the Court will benefit from an overall reduction in the number of court appearances in the remand court.

#### RELEASE ON BAIL

Adults charged by York Regional Police and subsequently released on bail by a Justice of the Peace will be provided with a similar Notice to Accused. Subject to the Court and individual situations, the Crown will also request a four-week remand prior to requiring an accused to return prepared to set a date for trial.

#### DISCLOSURE

Within the four-week period prior to First Appearance (or the first return date for those released on bail) York Regional Police will prepare Crown briefs for trial and full disclosure. While certain complicated or serious cases requiring further investigation or extra preparation may not be complete within that time period, it is expected that the vast majority will be. Disclosure will be available in all but exceptional cases prior to the First Appearance.

Disclosure can be obtained through the Crown Attorney's office. A meeting will be scheduled with a Crown Attorney on request for disclosure in person. For counsel wishing disclosure by mail, the existing \$20 fee, payable to York Regional Police to offset their costs in assisting the Crown Attorney's office to prepare disclosure materials, will continue.

All files will have been thoroughly reviewed by a senior police officer and a Crown Attorney prior to disclosure and First Appearance.

#### DUTY CROWN

The Crown Attorney's Office has established a Duty Crown program which is intended to assist in the management of cases at the First Appearance level. The position will rotate each month. The





Duty Crown will review all files entering the system and is available to discuss these cases with Counsel by appointment.

In addition, commencing August 1, 1990, on an experimental basis, the Duty Crown will be available from 9 a.m. to 11 a.m. in a consulting room near Courtroom 200, prepared to discuss any files set for that court on that day. Full disclosure must be requested as described above, but the prepared files will be available for review and discussion with counsel.

It is hoped that this will encourage early disposition of appropriate cases, and more accurate estimates of time required in those cases set for trial.

#### SUPERVISING CROWN

The existing Supervising Crown position will also continue, and will be directed to the daily management of cases in the trial courts. Questions relating to cases on the trial date should therefore be directed to the Supervising Crown or the Crown assigned to the trial court.

#### CUSTODY MATTERS

Trials will be scheduled and disclosure provided for accused detained in custody as they are now: at the earliest possible date.

#### O.P.P. CASES

Files relating to charges laid by the O.P.P. will continue to be handled as they are now. In the majority of cases files are available for disclosure within three weeks of the date the charge is laid, and accused routinely appear two to three weeks after the charge is laid.

June 25, 1990

TD/







## APPENDIX E



NOTICE TO ACCUSED PERSONS  
APPEARING IN PROVINCIAL COURT (CRIMINAL DIVISION)  
NEWMARKET

What must I do before my first court appearance? The Court will expect you to be able to tell it whether you intend to plead guilty or not guilty. If you intend to hire a lawyer, the Court will expect you to have done so by this date.

When does court start? On your first appearance, court starts at 9:30 a.m. Duty counsel and the duty Crown will be available by 9:00 a.m.

What will happen on first appearance? When your name is called, step forward with your lawyer. If you intend to plead not guilty you should be prepared to set a date for trial at this time. If you are charged with an indictable offence you should be prepared to tell the court which Court you elect to be tried in; consult your lawyer or duty counsel about this election.

I do not speak English well. The court will provide an interpreter to assist you. Please let duty counsel or the court know that you need an interpreter and the language involved.

I need some advice. If you intend to hire a lawyer on your own or with the assistance of Legal Aid, you should do so prior to your first appearance. Duty counsel is a lawyer provided free of charge on first appearance to advise you, and may assist you on a plea of guilty. Duty counsel cannot assist you on a trial. Please do not ask a police officer for advice on whether to plead guilty or not guilty.

I cannot afford a lawyer. If you cannot afford a lawyer and want to apply for Legal Aid, please contact your local office or the Legal Aid office in the Newmarket courthouse at 898-3943.

I will be pleading not guilty. You will be asked for dates when you and your lawyer are available for a trial. Your first appearance has been set far enough into the future to allow you to consult and hire a lawyer before then. If your lawyer cannot attend with you to set a date, bring a letter from the lawyer with dates.

If you change your mind after a date for trial has been set and you wish to plead guilty, call York Regional Police Case Management Office at 895-1221, ext. 221. They will arrange for your case to be brought forward to a date convenient to you and your lawyer.

I want to plead guilty on first appearance. Notify duty counsel and your case will be dealt with as soon as possible. Duty counsel can also assist you in deciding whether or not to plead guilty. A duty Crown will also be available to discuss your case with duty counsel or your lawyer on that date.

What is the case against me? You or your lawyer can apply for disclosure of the Crown's case against you. Please call York Regional Police at 895-1221, ext. 221. This material will be available prior to your first appearance. Also, the Duty Crown is available from 9 to 11 a.m. on the date of first appearance, or by appointment, to discuss your case with your lawyer.





## LEGAL AID APPLICATION PROCEDURE

If you cannot afford a lawyer and you want to apply for Legal Aid, please do so immediately to ensure that your application can be processed prior to your court appearance.

Where and when do I apply? You can apply to the Legal Aid office in the area you live in, or to the Newmarket office in the Newmarket Courthouse, ground level. The Newmarket office is open at the following times:

Monday, Wednesday, Friday: 8:30 am to 12:30; 2:00 to 3:45 pm.  
Tuesday: 8:30 am. to 12:30 pm. Thursday: No applications taken.

What information must I provide? You must attend in person and supply Legal Aid intake personnel with a description of your legal problem. In addition, you must meet with a representative of the Ministry of Community and Social Services who will prepare an analysis of your financial situation. That person will require:

1. Social insurance number, drivers license, passport, proof of citizenship or visa;
2. Pay slips, letter from employer, proof of pension or ~~wages~~ compensation or any other income;
3. If unemployed, separation slip or proof of receipt of Unemployment Insurance Benefits;
4. If in receipt of social assistance, cheque stubs or a letter from the agency confirming the amount and eligibility ~~number~~.
5. Verification of debts, receipts for expenses such as heating, hydro, rent, telephone, bank loans, charge cards.
6. If self-employed, business statements and income tax returns.
7. In case of bankruptcy, proof of receivership.
8. Copy of the deed to real property.
9. Up-to-date bank books, credit union statements, proof of bonds, RRSPs, stocks, bonds, etc.
10. A copy of Income Tax return for previous year if possible.
11. Support orders or other contracts or agreements setting out financial obligations.
12. If you have no source of income, a letter from whoever you reside with setting out your financial position within the household.

How long does the application take? If you attend with all necessary documentation it will normally take about half an hour. Applicants are served on a first come first served basis.

When will I get an answer? Once the application is complete you will normally have an answer on the fifth business day after your application. It will be mailed to the address you provide, but you can also telephone and find out. Call 898-3943.



**NOTICE TO ACCUSED PERSONS AND THEIR COUNSEL  
APPEARING IN PROVINCIAL COURT (CRIMINAL DIVISION)  
ASSIGNMENT COURT  
JUDICIAL DISTRICT OF PEEL**

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When does court start?	Court commences at 9:00 a.m. on your first appearance.
What will I be required to do?	When your name is called step forward before the Court.
do not speak English well.	The Court will order an interpreter for any person requiring one. Please let the court know if you need an interpreter and the language involved.
What am I charged with?	The Crown attorney will provide you with a brief synopsis outlining the allegations.
What will I be required to say?	You will be required to inform the Court whether you intend to plead guilty or not guilty.
I want to plead guilty today.	If you wish to plead guilty today, notify the Crown attorney and your matter will be placed before a Judge to be heard as soon as possible.
I need some advice.	<b>DUTY COUNSEL:</b> Lawyers are available free of charge for you to consult with and will assist you in making submissions as to sentence on a plea of guilty. Please obtain a pink duty counsel slip from the lawyer you see. Their office is located across from the main office near the information desk.
I will not be pleading guilty. What do I do?	If you intend to plead not guilty, your matter will be adjourned for a period of time to allow you to hire a lawyer and to allow you and/or your lawyer to attend for disclosure.
How do I apply for legal aid?	If you will be applying for legal aid attend their court office (just inside courtroom number one) to complete an application. Please do so immediately.
I will be hiring a lawyer on my own.	If you plan to hire a lawyer on your own, please do so immediately.
Can my lawyer discuss these charges in-depth with the Crown attorney's office?	<b>TO YOUR LAWYER:</b> Crown disclosure is available in this building, with an appointment, between the hours of 9:00 a.m. and 4:30 p.m., Mondays, Wednesdays, and Thursdays. Or your lawyer can call Peel Regional Police, Case Management Office at 453-3311, Ext. 8629 to make an appointment. In Federal matters, contact the Federal Crown at 454-2042. We encourage you to take advantage of this procedure.
I am setting a date for trial/preliminary inquiry. Should my lawyer be present?	If you are setting a date for trial or preliminary inquiry, it is advisable to have your lawyer present. In some cases, the Justice will require the presence of your lawyer to set a date. Otherwise, bring a letter from your lawyer indicating dates he/she is available. your election, if one is required, and <i>the estimated length of time required</i> for your matter to be heard.
My trial/preliminary inquiry will take more than one day to be heard. Will a date be set today?	On matters estimated to take more than one day, a date will not be given until your lawyer has attended for a disclosure meeting with the Crown attorney. Your matter will be remanded to a date in the future before Senior Judge W.D. August. At which time, a date will be set.
If I set a date for trial/preliminary inquiry, but I change my mind and wish to plead guilty, can I do so before my trial/preliminary inquiry date?	At any time, you may have your matter moved ahead for a guilty plea to a date convenient to you and/or your lawyer by contacting Case Management at 453-3311, Ext. 8629 (Fax 455-9521) or the Trial Co-ordinator at 451-4333 (Fax 455-2007).
How will I remember the date I have to return to court?	It is your obligation to remember the date(s) you are required to return to court. <b>WRITE IT DOWN.</b> Paper and pencil are provided in the assignment court.



## LEGAL AID APPLICATION PROCEDURE

Legal Aid can be obtained in the usual case only after an application has been made to an office of the Ontario Legal Aid Plan. This notice is provided in an effort to clarify and streamline applications and to answer the following common questions:

### WHERE TO APPLY?:

Applications for applicants residing in York Region are normally taken in the York Region Legal Aid Office located on the lower level of the Newmarket Court House, next to the cafeteria. We can accommodate applicants who do not reside in York Region but have a legal matter occurring here. All applicants must come prepared to complete both the legal and financial part of the application at the same time.

### WHEN TO APPLY?:

Applications are taken on a first come first served basis, as follows:

MONDAY, WEDNESDAY, FRIDAY: 8:30 a.m. to 12:30 p.m. and  
2:00 p.m. to 3:45 p.m.

TUESDAY: 8:30 a.m. to 12:30 p.m.

THURSDAY: no applications taken at this time.

YOU SHOULD APPLY ON YOUR FIRST COURT DATE OR AS SOON AS POSSIBLE TO ENSURE THAT YOUR CASE IS NOT DELAYED!!!

### WHAT TO BRING WITH YOU?:

You must attend in person at our office to supply our intake personnel with a description of why you need Legal Aid. This officer will prepare an analysis of the legal problem for which you require Legal Aid.

While you are at our office you must also meet with an assessment officer of the Ministry of Community and Social Services. This officer will prepare an analysis of your financial position. Current Comsoc guidelines require that you produce the following documentation where applicable for your application:

1. Social Insurance Number, Drivers Licence, Proof of Citizenship or Passport, Visa.
2. Pay slips if employed, or letter from employer advising of income and deductions, Proof of Pensions or Workers Compensation, etcetra.
3. If unemployed, separation certificate or proof of receipt of the Unemployment Insurance Benefits.
4. If in receipt of social assistance, social assistance cheque stubs, or letter from them advising us of amount and eligibility Number.
5. Verification of debts, receipts for expenses such as heat, hydro, rent, telephone, bank loans, charge cards, insurance premiums.
6. If self-employed, business statements and income tax return forms.
7. In case of bankruptcy, proof of receivership.
8. Copy of Deed for Real Property.
9. Up-to-date bank books, credit union statements or current monthly statements. Proof of RRSP's, Stocks, Bonds, etcetra.
10. A copy of Income Tax Return for the previous year, if possible.
11. Support orders or other contracts or agreements setting out financial obligations.
12. If you have no source of income, a letter is required from whomever you reside with setting out your financial position within their household.

NOTE: LEGAL AID CAN ONLY PROCESS YOUR APPLICATION WHEN A COMPLETE LEGAL AND FINANCIAL APPLICATION IS MADE.

### HOW LONG DOES THE APPLICATION TAKE?:

An uncomplicated application will take about  $\frac{1}{2}$  hour if you come prepared. You will of course need to wait your turn on your arrival. Try to arrive at 8:30 a.m. or 2:00 p.m.







Ontario

Judge's  
Chambers

Provincial Court  
(Criminal Division)

Judicial District  
of York Region

(416) 895-6600, 6601

2nd Floor  
50 Eagle Street W.  
(at 11 Hwy.)  
Newmarket, Ontario  
L3Y 6B1

NOTICE TO PERSON CHARGED

The offence(s) with which you have been charged is (are) either an indictable offence or an offence on which the Crown has elected or chosen to proceed by way of indictment.

As a result you have the right to elect or chose to be tried:

By a Provincial Court Judge; or

By a District Court Judge; or

By a District Court Judge sitting with a jury.

On your next appearance in this Court you will be required to elect the mode of your trial. Should you elect to be tried by a District Court Judge with or without a jury a Preliminary Inquiry will be held in Provincial Court rather than a trial.

If you intend to retain counsel to assist you with the charge(s) please discuss the question of your election with your counsel.

If you require disclosure of the Crown's evidence in order to make this election you, or your counsel if represented, are entitled to obtain the same prior to election by contacting the Crown Attorney's office in this building.

A DATE FOR YOUR TRIAL OR PRELIMINARY

HEARING WILL NOT BE SET UNTIL YOU ELECT









## APPENDIX F





Ministry of  
the Attorney  
General

Crown  
Attorney

Judicial District of  
Ottawa-Carleton

Court House  
161 Egin Street  
Ottawa Ontario  
K2P 2K1

Ministère  
du Procureur  
général

Procureur de  
la Couronne

District judiciaire  
d'Ottawa-Carleton

Palais de Justice  
161 rue Egin  
Ottawa Ontario  
K2P 2K1

1613 235-1200

July 24, 1989

MEMORANDUM:

TO: DEFENCE COUNSEL

FROM: ANDREJS BERZINS, Q.C.,  
CROWN ATTORNEY.

RE: VICTIM/ACCUSED PRE-TRIAL CONFERENCES

This is to advise you that the Senior Judge of the Provincial Court, Criminal Division, in consultation with the Court Management Committee, has agreed to set up a special court for Victim/Accused Pre-Trial Conferences. This court will be held every second Thursday, commencing September 7th, 1989 at 10:00 a.m., until November 9th, 1989 inclusive. After evaluation, it may continue beyond November.

PURPOSE

The purpose of these "Special" pre-trials is to provide a means for both the Crown and Defence to better assess whether a trial date need be set and to explore the possibility of resolving cases in a satisfactory manner to all parties at an early opportunity. Since we are all dealing with an enormous volume of cases, it is often impossible under our



present system to elicit the views of victims and to ascertain the position of the accused on many cases until the morning of the trial. By that time many months may have elapsed since the date of the offence and victims have become frustrated and disenchanted with the Criminal process. In addition much valuable court time has needlessly been taken up. The Victim/Accused Pre-trial Conference will provide a means for early consultation by the Crown with the Victim and by the Defence with the accused to determine whether cases can be resolved or whether trial dates need be set.

#### TYPE OF CASES ELIGIBLE

The categories of cases eligible for these pre-trials may be expanded or diminished depending upon experience. In general, these would be relatively minor offences and would include the following:

- A) Cases where restitution is the main goal of the criminal process, for example, damage to property, food by fraud, transportation fraud.



























## APPENDIX G



FIGURE 7  
Trial Time Estimates and Actual Lengths\*

